



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 18, 2019
MAHS Docket No.: 18-012882
Agency No. [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 10, 2019, from Detroit, Michigan. Petitioner represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits in November 2018?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is an ongoing recipient of FAP benefits.
2. The Department received information that Petitioner received Medical Assistance benefits from both Michigan and Tennessee during the month of September 2018.
3. On September 14, 2018, the Department sent Petitioner an Out of State Benefits Match Notice which required Petitioner to complete and return the form on or before September 24, 2018.
4. On October 9, 2018, the Department sent Petitioner a Verification Checklist (VCL) which requested that Petitioner provide proof of his land contract in Michigan on or before October 19, 2018.

5. The Department did not receive the proof of the land contract by the required due date.
6. The Department reduced Petitioner FAP benefits for November 2018 because he failed to verify his shelter expense.
7. The Department did not send Petitioner any notice advising him that his FAP benefits would be reduced in November 2018.
8. On November 28, 2018, Petitioner filed a Request for Hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner is 100% blind. Petitioner testified that he had a device that would allow him to read his mail, but that device has been inoperable since May 2018. Petitioner indicated that he was blind in his application. The Petitioner stated that no one from the Department contacted him regarding his disability. Given the disability disclosure on the application and that Petitioner indicated that he lived alone, the Department should have inquired as to whether Petitioner had the ability to review mail sent to his home. Petitioner testified that he was unaware that the VCL had been sent to his home and therefore was unable to respond in a timely manner.

The Department conceded that it did not send Petitioner a Notice of Case Action notifying him that his benefits had been reduced. A negative action, as defined by the Department, is a MDHHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (October 2015), p. 1. A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.

- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested. See BAM 220 pg. 2 (October 2015).

Because the Department failed to provide Petitioner with notice, it is found that the Department improperly reduced Petitioner's FAP benefits effective November 1, 2018. At the hearing, the Department agreed to contact Petitioner by telephone to ensure that he is able to respond to time sensitive documents sent by mail.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it reduced Petitioner's FAP benefits effective November 1, 2018.

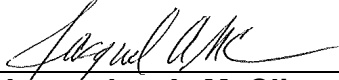
DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate and redetermine Petitioner's eligibility for FAP benefits effective November 1, 2018;
2. If Petitioner was eligible for supplements, issue FAP supplements Petitioner was eligible for but did not receive effective November 2018; and
3. Notify Petitioner in writing.

JAM/tlf



Jacquelyn A. McClinton
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]