



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 25, 2019
MAHS Docket No.: 18-013781
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 February 20, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Meshawn Coleman, Eligibility Specialist. During the hearing, a 12-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-12.

ISSUE

Did the Department properly process Petitioner's reported loss of employment for the purposes of determining Petitioner's Food Assistance Program (FAP) benefits?

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 was an ongoing recipient of FAP benefits with a household size of four. Petitioner had earnings from employment with [REDACTED] that were included in the Department's calculation of Petitioner's monthly FAP allotment of \$[REDACTED].
2. On October 7, 2018, Petitioner separated from her employment with [REDACTED]. Exhibit A, p. 8.

3. On October 23, 2018, Petitioner reported her loss of employment to the Department. Exhibit A, pp. 5-6.
4. The Department did not process Petitioner's reported loss of employment until it asked Petitioner to verify her loss of employment sometime in early December 2018.
5. On December 14, 2018, the Department received from [REDACTED] a statement verifying that Petitioner separated from employment with Media on October 7, 2018. Exhibit A, p. 8.
6. On December 27, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her monthly FAP benefits were increasing to \$[REDACTED] Exhibit A, pp. 9-12.
7. On [REDACTED] 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's failure to timely process her change report.

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 was, until October 7, 2018, working for [REDACTED] and her earnings with [REDACTED] were included in the calculation of her monthly FAP benefits. On [REDACTED] 2018, Petitioner submitted to the Department a change report informing the Department that Petitioner was no longer employed with [REDACTED]. The Department did not do anything with Petitioner's change report until early December 2018, when it requested verification of the loss of employment. Petitioner contacted [REDACTED], which promptly provided the requested verification of the loss of employment. Petitioner has sought a hearing regarding the Department's processing of her reported loss of employment and income.

When a client reports a changes that would result in an increase in the household's FAP benefits, the increase must go into effect no later than the first allotment issued within ten days after the change was reported, provided any requested verifications were returned by the due date. BAM 220 (October 2018), p. 7. If verification is required or

deemed necessary and the client timely provides the requested verifications, the increase must be effective based on the date the change was reported. BAM 220, p. 7.

Petitioner's reported loss of employment happened on October 23, 2018. Thus, it was too late to impact the allotment for November 2018. However, provided Petitioner supplied all requested verifications, the change should have resulted in an increase in benefits for the month of December. The Department failed to request any verifications until December 2018. At that point, Petitioner timely returned all requested verifications to the Department. Thus, the effective date of the reported change must relate back to the initial change report date of [REDACTED] 2018. Based on that report date, the appropriate month for the change to be implemented was December 2018. The Department failed to implement the loss of income until January 1, 2019. By failing to timely process Petitioner's change report and incorporate the loss of income into Petitioner's December 2018 FAP budget, the Department violated Department policy and law. Accordingly, the Department is reversed.

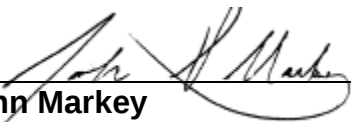
DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's [REDACTED] 2018 change report. 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. The Department shall redetermine Petitioner's December 2018 FAP benefits, taking into consideration Petitioner's loss of employment and budgeting zero income to Petitioner's old job with Media Star Productions;
2. If Petitioner is eligible for additional FAP benefits for December 2018, the Department shall issue Petitioner a supplement;
3. The Department shall provide Petitioner with written notice of its determination.

JM/cg



John Markey
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:

MDHHS-Macomb-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]