



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: January 14, 2019
MAHS Docket No.: 18-013031
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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, an administrative hearing was held on January 9, 2019, from Lansing, Michigan. Petitioner appeared and testified unrepresented. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator. Makala Williams, APW entered the hearing mid-way and testified on behalf of the Respondent.

ISSUE

Did the Department properly close Petitioner's FAP benefits on the grounds that his income exceeded the monthly payment standard?

FINDINGS OF FACT

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

1. At all relevant times, Petitioner has been a beneficiary of the FAP program. Petitioner has been a beneficiary since 2014 or earlier.
2. Petitioner's case was scheduled for review for the month of October 2018.
3. Respondent conducted a telephone interview with Petitioner, followed by a Verification Checklist including numerous verifications, among them income and rent.

4. Respondent delivered the income verifications for the month of August 2018, totaling [REDACTED].
5. Respondent failed to deliver any rent verifications.
6. Respondent calculated an FAP budget showing Petitioner had excess income for FAP eligibility.
7. Petitioner's case closed October 1, 2018, at the end of the certification period.
8. On October 22, 2018, Petitioner filed a hearing request arguing in part that he did not receive notice.
9. On October 30, 2018, Respondent issued a DHS 176 to Petitioner informing him that his FAP benefits had stopped October 1, 2018, due to excess income.

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, credible and substantial evidence of record is that Petitioner's FAP case was reviewed at the end of the certification period. Petitioner was issued notice upon opening of his FAP case that his eligibility will end at the end of the certification period. At that time, policy requires Respondent to conduct a review, an interview, issue a verification checklist, and process eligibility.

Here there is no dispute regarding the income verifications submitted by Respondent. Based on the FAP budget, Petitioner's [REDACTED] net income exceeded the monthly payment standard of \$2,452.00. As such, and on this basis alone, Petitioner's household does not have eligibility.

As to notice, Respondent discussed in its hearing summary at length that notice was not issued. However, policy does not require a standard timely notice at the end of certification period. As such, under FAP policy, the timely notice was not required. Nevertheless, the Respondent did issue a subsequent DHS-176 to document the closure.

In addition, Petitioner disputed the lack of a rent deduction on his FAP budget. Unrefuted evidence is that Petitioner failed to submit any verification of rent. As such, Respondent did not budget rent. Petitioner argues he understood that he did not need to submit any verification. Respondent argues that the Verification Checklist clearly states that Respondent was required to submit rent verification. On these facts alone, Respondent's evidence supports the action taken.

However, Petitioner further argued that he was 'verbally' instructed that he did not need to verify rent as Respondent had a rent verification from 2015. The individual Petitioner alleged informed him of the same came into the administrative hearing and refuted Petitioner's representations. In addition, Respondent indicated that Respondent would always require current and updated verifications and would not take a verification over three years old as valid as FAP policy found in BEM requires current verifications to establish eligibility. Petitioner did not rebut the credibility of Respondent's representations, which were supported by policy.

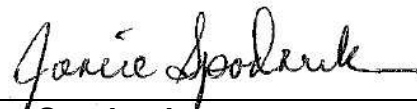
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it failed to continue Petitioner's FAP benefits at the end of his certification period. In addition, to the extent that Petitioner's rent was not budgeted, competent and substantial evidence of record supports the failure of the Respondent to budget rent for which it lacked verification. Petitioner may reapply if he has not already done so.

DECISION AND ORDER

Accordingly, the Department's decision denying continuation of FAP benefits beginning 10/1/18 due to excess income was correct, and is hereby,

AFFIRMED.

JS/dh



Janice Spodarek
Administrative Law Judge
for Nick Lyon, 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

DHHS

Tara Roland 82-17
8655 Greenfield
Detroit, MI 48228

Wayne County (District 17), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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