



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 11, 2017
MAHS Docket No.: 17-004730
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, hearing was held on May 4, 2017, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Candice Bennis, Hearing Facilitator.

ISSUE

Did the Department properly reduce the 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. The Petitioner completed a Mid Certification Notice sent to him on January 3, 2017.
2. The Petitioner advised the Department that his mother died in 2015 and that all bills are in her name and that he could not get the name changed to his name. In addition, the Petitioner advised the Department that he pays property taxes and pays for gas, water, sewage, etc., and telephone.
3. The Department did not verify the Petitioner's housing expenses as part of the Mid Certification.

4. The Department included income for Petitioner of \$735 in Supplemental Security Income (SSI) and a State of Michigan Quarterly Supplement of \$14 for a total of \$749. (Exhibit 3)
5. The Department included no housing expenses for Petitioner when calculating the Petitioner's FAP benefits. (Exhibits 2 and 3)
6. The Department issued a Notice of Case Action on February 22, 2017, decreasing the Petitioner's FAP benefits to \$16.00 a month. (Exhibit 2)
7. The Petitioner requested a timely hearing on [REDACTED] 2017, protesting 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, the Department reduced the Petitioner's FAP benefits after he completed a Mid-Certification Review. The Department's FAP budget did not include any housing expenses. The Petitioner's Mid-Certification information indicated that he paid heat and taxes, telephone. The Department did not issue a Verification for any of these housing expenses at the time of the Mid-Certification Notice.

BAM 130 requires that housing expenses be verified by the Department so that they can be reviewed and included if applicable when calculating FAP benefits. The Petitioner credibly testified that he was paying the utilities, telephone and taxes ongoing as reported on the Mid-Certification Review.

The Department did not present evidence that it issued a Verification Checklist to determine whether the housing expenses could be verified. In addition, the Petitioner indicated that he did not get the quarterly supplement; and the Department did not present any evidence that a quarterly supplement was being received by the Petitioner. Although the Department recalculated the Petitioner's FAP benefits after his hearing request and increased them, this change occurred after the hearing request filed by the Petitioner and cannot be considered in determining its mid-certification review.

BAM 130 provides:

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required.

Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130 (January 1, 2017), p. 1.

All Programs

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 9.

Based upon the evidence presented, it is determined that the Department should have verified the reported housing expenses listed by the Petitioner on the Mid-Certification Notice and then calculated the Petitioner's FAP benefits. The Department presented no evidence that it sought verification as required by Department policy and did not include any expenses for housing when completing the review, and thus, did not meet its burden of proof that it complied with Department policy. In addition, the Petitioner disputed receiving the State Quarterly supplement (\$14 monthly), which was added to his income; and the Department presented no evidence that Petitioner was receiving same.

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 reduced Petitioner FAP benefits and failed to verify Petitioner's reported housing expenses

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 reprocess the Petitioner's Mid-Certification Review dated January 3, 2017, and seek verification of the reported housing expenses and redetermine Petitioner's FAP benefits.

2. The Department shall issue an FAP supplement to the Petitioner for FAP benefits, if any, that the Petitioner was otherwise entitled to receive in accordance with Department policy.

LMF/jaf



Lynn M. Ferris
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) 335-6088; 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

Petitioner

[REDACTED]
[REDACTED]
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DHHS

Wayne (49)

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