



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON
DIRECTOR



Date Mailed: October 4, 2017
MAHS Docket No.: 17-009213
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 October 2, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Dionere Craft, Hearing Facilitator and Kathy McKeown-Orton, Family Independence Specialist.

ISSUE

Did the Department properly process Petitioner's change report and calculate the amount of her 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 in the amount of \$516. Petitioner was approved for monthly benefits of \$516 through March 31, 2017. (Exhibit A, p. 4)
2. On February 21, 2017 Petitioner submitted a Change Report advising the Department of her daughter's change in income/earnings and included paystubs as verification. (Exhibit A, pp. 9-11)

3. The Department did not timely process Petitioner's reported changes in household income and did not timely apply the income changes to the appropriate benefit months.
4. On March 17, 2017 the Department sent Petitioner a Notice of Case Action advising her that due to an increase in her monthly unearned income (consisting of \$403 in Family Independence Program (FIP) benefits), her FAP benefits would be decreased to \$395 effective April 1, 2017. Petitioner's budgeted earned income remained unchanged. (Exhibit A, pp. 5-8)
5. In connection with a redetermination, on June 6, 2017 the Department sent Petitioner a Notice of Case Action advising her that effective July 1, 2017 she was approved for FAP benefits in the amount of \$454. (Exhibit A, pp. 23-26)
6. On June 20, 2017 the Department sent Petitioner a Notice of Case Action advising her that effective August 1, 2017 her FAP benefits would be decreased to \$365 monthly. The "Comments From Your Specialist About This Notice" section of the Notice of Case Action indicates "[a] new budget has been completed based on customer request from February to current. Actual income received has been provided via the work number." (Exhibit A, pp. 20-22)
7. The June 20, 2017 Notice of Case Action does not provide any information on Petitioner's FAP benefit eligibility for February 2017, ongoing, after the new budgets were completed. (Exhibit A, pp. 20-22)
8. On July 6, 2017 Petitioner requested a hearing disputing the Department's actions with respect to her FAP benefits, specifically, the Department's failure to process her reported income decrease. (Exhibit A, pp. 2-3)

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.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes such as starting or stopping employment must be reported within 10

days of receiving the first payment reflecting the change. BAM 105 (October 2016), p. 11. For FAP cases, income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. If verification is required or deemed necessary, the Department must allow the household 10 days from the date the change is reported or the date the Department requests verification to provide the verification requested. The change must still affect the correct issuance month i.e., the month after the month in which the 10th day after the change is reported. BEM 505 (April 2017), pp. 10-11.

In this case, Petitioner disputed the Department's calculation of her FAP benefits, specifically, the Department's failure to timely process a change report that she submitted on February 21, 2017. The Department confirmed receiving the Change Report reflecting Petitioner's daughter's change in income and in response testified that the FAP budgets were recalculated for the months of February 2017 ongoing, using income information obtained from the Work Number.

A review of the evidence presented however, including the budget summaries from the Notices of Case Action and the FAP EDG Net Income Results Budgets for the months of March 2017 and April 2017 indicate that the Department did not make any changes to the earned income being budgeted on Petitioner's FAP case until the July 2017 benefit month which was done in connection with a redetermination. The March 2017 and April 2017 FAP EDG Net Income Results Budgets are identical (including \$1403 in earned income), with the exception of the inclusion of \$403 in FIP benefits for April 2017. Additionally, based on the income amounts relied upon by the Department and as stated on the record as having been obtained through the Work Number, Petitioner's earned income for the months of March 2017 and April 2017, when prospectively budgeted, does not total \$1403 as the Department determined. See BEM 505 (April 2017). All other figures reviewed on the budgets were undisputed or confirmed as correct by Petitioner. Thus, the only dispute was the calculation of earned income.

The Department failed to present sufficient evidence that it processed Petitioner's reported income changes, recalculated the FAP budget for the applicable months, and provided Petitioner with adequate or timely notice of the changes in her FAP benefit eligibility for each month as required. See BAM 220.

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 processed Petitioner's FAP benefits.

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. Process Petitioner's reported income decrease using the change report date of February 21, 2017;
2. Recalculate Petitioner's FAP budget for March 1, 2017, ongoing, to reflect the income changes;
3. If Petitioner is eligible for FAP benefits, issue FAP supplements to Petitioner from March 1, 2017, ongoing, for any FAP benefits she was eligible to receive but did not, in accordance with Department policy; and
4. Notify Petitioner in writing of her FAP benefit eligibility for each month. (March 2017, ongoing).



ZB/tlf

Zainab A. Baydoun
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

Via Email:

MDHHS-Wayne-55-Hearings
BSC4 Hearing Decisions
M. Holden
D. Sweeney
MAHS

Petitioner – Via First-Class Mail:

