



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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Date Mailed: August 31, 2018
MAHS Docket No.: 18-007272
Agency No.: ██████████
Petitioner: ██████████

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 hearing was held on August 15, 2018, from Lansing, Michigan. ██████████, Petitioner, and ██████████ appeared on Petitioner's behalf. The Department of Health and Human Services (Department) was represented by Haysem Hosny, Eligibility Specialist (ES).

ISSUES

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits for the May 2018 application?

FINDINGS OF FACT

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

1. On ██████████, 2018, Petitioner filed an application with the Department for FAP benefits.
2. Upon receiving the application, the Department issued a May 25, 2018, Notice of Case Action informing Petitioner that she was eligible for \$61.00 per month in FAP benefits.
3. In calculating Petitioner's FAP benefits, the Department did not include take into consideration utility expenses.

4. On [REDACTED] 2018, Petitioner filed a request for hearing objecting to the Department's calculation of Petitioner's benefits for the months of May and June of 2018.

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.

At the hearing, Petitioner argued that the Department failed to consider her utility expenses in calculating her FAP benefit amount. The Department contended that Petitioner did not properly report the utility expenses. BAM 130 (April 1, 2017), pp. 1-10 describes the verification process.

Timeliness of Verifications

FIP, SDA, RCA, Child Development and Care (CDC), FAP

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day.

Send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130.

In this case, the Department refused to consider Petitioner's utility expenses because Petitioner allegedly failed to report them to the Department on the application. Shortly after receiving the application, the Department sent a Notice of Case Action informing Petitioner that Petitioner was eligible for \$61.00 per month in benefits and that the Department did not consider any utility expenses in making that calculation.

However, the evidence on the record does not support the Department's position. Shortly before the [REDACTED], 2018, application, Petitioner's FAP case closed. In that case, Petitioner's benefits were calculated while including a \$537.00 utility expense. Petitioner's daughter credibly testified that she informed the Department at the time of application that Petitioner had utility expenses equal to what she had before, which were \$537.00 per month. The Department failed to present anything provided by Petitioner that rebutted Petitioner's credible testimony. Based on the record in this matter, Petitioner reported the expenses in a timely manner at the time of application. Rather than taking them into consideration or attempting to verify the expense, the Department calculated Petitioner's FAP benefits without the benefit of having her utility expenses factored into the excess shelter deduction.

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 calculated Petitioner's 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. Reprocess Petitioner's FAP application back to the date of application and, if the Department is unable to verify a LIHEAP or HHC payment to Petitioner, issue Petitioner a Verification Checklist for utility expenses;
2. If Petitioner is found eligible for additional benefits, issue Petitioner supplemental FAP benefits; and
3. Notify Petitioner in writing of its decision.



JM/dh

John Markey
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

Vivian Worden
41227 Mound Rd.
Sterling Heights, MI 48314

Macomb County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
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