



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 5, 2018
MAHS Docket No.: 18-007586
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 August 21, 2018, from Lansing, Michigan. Petitioner appeared and was represented by her authorized hearing representative, [REDACTED]. The Department of Health and Human Services (Department) was represented by Brandi Eiland, AP Supervisor. During the hearing, 36 pages of documents were offered and admitted as Exhibit A, pp. 1-36.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) benefits for July 2018?

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 is an ongoing FAP recipient.
2. Prior to July of 2018, Petitioner was receiving \$140.00 per month in FAP benefits. Petitioner had \$764.00 in monthly income, all unearned. In addition, Petitioner received the heating and utility (h/u) standard of \$537.00 as a result of her receiving a Home Heating Credit. Exhibit A, pp. 17, and 20-22.

3. On May 4, 2018, the Department issued to Petitioner a Redetermination, Form 1010, to obtain relevant ongoing eligibility information from Petitioner. Exhibit A, p. 5-12.
4. On June 18, 2018, the Department received back from Petitioner the completed Redetermination. On page 7 of the Redetermination, the Department asked “Has anyone in your household who is receiving FAP received the Home Heating Credit (HHC) in an amount greater than \$20 for this month or within the past 12 months?” To that question, Petitioner answered “yes.” Exhibit A, pp. 5-12.
5. On July 3, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that the Petitioner’s monthly FAP benefits were \$15.00, effective July 1, 2018. The Department did not apply the h/u standard. Exhibit A, pp. 15-16.
6. On ██████████ 2018, Petitioner filed a request for hearing challenging the reduction of her FAP benefits and the Department’s refusal to apply the h/u standard.

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 an ongoing FAP recipient receiving \$140.00 per month in FAP benefits. When Petitioner was receiving the \$140.00 per month, the Department was factoring in the h/u standard when calculating her benefits because it had verified that in the 12 months prior, Petitioner had received the HHC. An individual who receives the HHC is eligible for the \$537.00 h/u standard in the calculation of FAP benefits. BEM 554 (August 2017), p. 18.

In the returned Redetermination, Petitioner reported that she had received the HHC within the previous 12 months. However, when the Department reviewed its database, that payment was not reflected. Because the Department concluded Petitioner did not receive the HHC within the previous 12 months before Redetermination, as of July 1, 2018, the Department stopped applying the h/u standard. The Department did not allow Petitioner an opportunity to verify the veracity of her HHC claim.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), page 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, page 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, page 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, page 7.

The Department witness testified that the Department did not ask for verification of receipt of the HHC from Petitioner upon discovering the discrepancy between what Petitioner reported in the Redetermination and what the database reflected. The Department cannot simply declare as untrue Petitioner's assertions regarding the receipt of the HHC without allowing a chance to verify the assertion. Thus, the Department failed to establish that it followed policy when it determined that Petitioner was not eligible for the h/u standard that would follow if Petitioner was able to verify receipt of the HHC in the previous 12 months.

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 determined Petitioner was not eligible for the h/u standard.

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. Determine whether Petitioner is eligible for the h/u standard deduction of \$537.00;
2. If Petitioner is not eligible for the h/u standard deductions, issue a Verification Checklist that allows Petitioner the opportunity to verify her reported utility expenses;
3. Recalculate Petitioner's FAP benefits effective July 1, 2018;
4. If Petitioner is eligible for additional benefits, issue Petitioner a supplement; and
5. 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

Kim Cates
1399 W. Center Road
Essexville, MI 48732

Bay County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]