



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 6, 2018
MAHS Docket No.: 18-007635
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 30, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Lynda Brown, Hearings Facilitator, and Meshawn Coleman, Eligibility Specialist. During the hearing, a hearing packet was offered and admitted into evidence as Exhibit A, pp. 1-21.

ISSUE

Did the Department properly process information provided in Petitioner's Mid-Certification Contact Notice when calculating 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. Petitioner is an ongoing FAP recipient.
2. On April 2, 2018, the Department issued to Petitioner a Mid-Certification Contact Notice with a due date of May 1, 2018. Exhibit A, pp. 5-7.
3. On April 10, 2018, Petitioner returned to the Department the completed Mid-Certification Contact Notice, wherein Petitioner reported new monthly housing

expenses of \$[REDACTED]. Included with her submission was part of a lease document reflecting that rent was \$[REDACTED] per month and a receipt showing a payment of \$[REDACTED] with a handwritten note saying rent had increased to \$[REDACTED]. Exhibit A, pp. 3-7.

4. The Department determined Petitioner's submission concerning her housing expenses was insufficient and declined to factor in Petitioner's housing expenses when calculating Petitioner's FAP benefits.
5. On May 25, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she would receive \$[REDACTED] per month in FAP benefits. The Notice of Case Action included a Budget Summary showing that Petitioner's FAP benefits were calculated without taking into account Petitioner's reported housing expenses. Exhibit A, pp. 8-11.
6. On July 10, 2018, Petitioner submitted a copy of her current lease showing monthly housing expenses of \$[REDACTED] along with four pages of photocopied receipts showing past rental payments. Exhibit A, pp. 12-16.
7. On July 16, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her monthly FAP benefits were increasing to \$[REDACTED] starting August 1, 2018. Exhibit A, pp. 17-20.
8. On [REDACTED] 2018, Petitioner submitted a hearing request objecting to the Department's failure to consider her reported housing expenses in calculating her June and July FAP benefits.

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 \$[REDACTED] per month in FAP benefits. When Petitioner was receiving the \$[REDACTED] per month, the Department was not factoring in a housing expense when calculating her benefits.

On April 2, 2018, the Department issued to Petitioner a Mid-Certification Contact Notice in order to gather relevant information to determine ongoing eligibility for FAP benefits.

The Mid-Certification Contact Notice required Petitioner to answer a number of questions pertaining to factors that could impact how much she receives in monthly benefits. On the completed Mid-Certification Contact Notice Petitioner returned to the Department on April 10, 2018, Petitioner reported that she pays \$[REDACTED] per month in rent and provided a partial copy of a lease along with a receipt showing payment of \$[REDACTED]

Upon receiving the completed Mid-Certification Contact Notice, the Department reviewed Petitioner's submission and deemed it insufficient to validate the housing expense. At no point prior to deeming the submission insufficient did the Department allow Petitioner the opportunity to verify the housing expense. Petitioner requested a hearing to challenge the Department's failure to consider her housing expenses when calculating her FAP benefits for the months of June and July of 2018.¹

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 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, p. 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7.

The Department admitted that it failed to provide Petitioner an opportunity to verify her housing expense, despite Petitioner's reasonable effort to report and verify the expense on her Mid-Certification Contact Notice. The Department's failure to consider the reported expenses without giving Petitioner a reasonable chance to verify the expenses after reporting them cannot be sustained. The record shows that the Department improperly excluded Petitioner's reported expenses from the FAP calculation.

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 FAP benefits without either consideration or a chance to verify reported housing expenses.

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 Starting August 1, 2018, Petitioner's FAP benefits were increased to \$192 per month, the maximum for her group size. Petitioner does not challenge that action.

1. Recalculate Petitioner's FAP benefits for the months of June and July of 2018 taking into account the subsequently verified housing expenses of \$ [REDACTED] per month;
2. If Petitioner is found eligible for additional benefits, provide Petitioner a FAP benefits supplement; 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

Lauren Casper
27690 Van Dyke
Warren, MI 48093

Macomb County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]