



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 20, 2018
MAHS Docket No.: 18-010577
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 November 13, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Natalie McLaurin, Hearing Coordinator.

ISSUE

Did the Department properly determine Petitioner's eligibility for 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 a recipient of FAP benefits, which requires her to report within 10 days changes in household composition.
2. On July 20, 2018, Petitioner reported that her son, [REDACTED], had returned to the home, but she did not report that he had earned income. Department Exhibit 1, pgs. 4-6.
3. On August 14, 2018, Petitioner completed her Semi-Annual Contact Report (DHS 1046), where she reported that her son moved home on July 1, 2018, and was employed at [REDACTED] as of July 10, 2018. Department Exhibit 1, pgs. 8-9.

4. On August 14, 2018, Petitioner submitted employment check stubs for her son to the Department. Department Exhibit 1, pg. 23.
5. On September 10, 2018, the Department Caseworker sent Petitioner a Notice of Potential Food Assistance (FAP) Closure (DHS 1046-A) effective September 30, 2018. Department Exhibit 1, pg. 10.
6. On September 20, 2018, Petitioner submitted check stubs for her job at [REDACTED]. Department Exhibit 1, pgs. 12-14.
7. On September 20, 2018, Petitioner submitted a change report form reporting her son was in the home. Department Exhibit 1, pgs. 15-17.
8. On September 27, 2018, the Department Caseworker sent Petitioner a Notice of Case Action, DHS 1605, that her FAP benefits were closing on October 1, 2018, for a household group size of zero. Department Exhibit 1, pgs. 24-27.
9. On October 4, 2018, the Department received a hearing request from Petitioner, contesting the Department's negative action.

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 failed to report that her son was employed when she reported to the Department that he was in the home on July 20, 2018. She did provide employment check stubs for her son to the Department on August 14, 2018. The Department failed to request verification of Petitioner's son's employment after receiving the check stubs on August 14, 2018. As a result, Petitioner did not fail to provide verification. BAM 105, 130, 212, 220, and 807. BEM 212, 400, 501, 503, and 554.

During the hearing, the Hearing Coordinator stated that the Department sent Petitioner an incorrect notice in September of 2018. A change reported in July of 2018 affects benefits in August of 2018 forward. The Department will redetermine eligibility based on the change reported in July of 2018.

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's eligibility for FAP in August of 2018 forward.

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 of initiating a redetermination of Petitioner's eligibility for FAP benefits retroactive to August of 2018 forward with her son in the home and his earned income.

Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and issue Petitioner any retroactive benefits she may be eligible to receive, if any.

CF/dh



Carmen G. Fahie
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

Kathleen Verdoni
411 East Genesee
PO Box 5070
Saginaw, MI 48607

Saginaw County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]