



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 19, 2018
MAHS Docket No.: 18-010665
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 November 15, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Shaumanique Bright, Assistance Payments Specialist.

ISSUE

Did the Department properly process and consider Petitioner's reported and verified childcare expenses when determining her Food Assistance Program (FAP) benefits for the month of October of 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. On August 29, 2018, Petitioner returned to the Department a semi-annual report providing relevant information regarding Petitioner's ongoing eligibility for FAP benefits. On the returned form, Petitioner reported that she paid childcare expenses.
3. On September 10, 2018, the Department sent to Petitioner a notice informing Petitioner that her FAP case was going to close at the end of the month for not

returning the semi-annual report that Petitioner had, in fact, returned almost two weeks prior.

4. Petitioner filed a request for hearing challenging the Department's decision to close her case. During the prehearing conference for that hearing, Petitioner provided the Department with the proof that she had in fact returned the semi-annual report about one month before.
5. On September 27, 2018, the Department issued to Petitioner a verification checklist requesting verification of Petitioner's reported childcare expenses.
6. Petitioner timely returned the verifications.
7. Despite reporting the expenses in August of 2018 and verifying them within days of being asked for the verification, the Department did not consider the expenses when dispensing Petitioner's benefits for the month of October of 2018. This caused Petitioner's FAP benefits to be greatly reduced.
8. In every month prior to October of 2018 and after October of 2018, the Department considered Petitioner's childcare expenses in calculating her FAP benefits.
9. On October 16, 2018, Petitioner filed with the Department a request for hearing challenging the Department processing of her childcare expense report and verifications.

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's FAP case was due for a semi-annual review with her certification period ending at the end of September of 2018. Part of that process requires Petitioner to timely return a form providing the Department with relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Petitioner returned that completed form over one month before the end of her benefits period. On that form, Petitioner reported that her child care expenses were unchanged.

About two weeks after submitting that completed form, the Department notified Petitioner that it was going to close Petitioner's FAP case for failing to submit that form. Shortly thereafter, Petitioner went into the office and provided the Department proof that she in fact did turn in that form on August 29, 2018. Only at that time did the Department even begin to process Petitioner's semi-annual review forms. In the process, the Department issued a September 27, 2018, verification checklist requesting verification of Petitioner's reported and previously verified childcare expenses. Petitioner timely returned the requested verifications. Despite acting prudently and within all proscribed time-limits, Petitioner's FAP benefits were substantially reduced for the month of October.

The Department's position is that this reduction was proper because by the time the benefits were issued, the childcare expenses had not been verified. The only reason that the Department did not receive the verification in a "timely" manner was because the Department had an unreasonable delay in processing Petitioner's semi-annual review wherein she reported the childcare expenses. It was almost one full month from the time Petitioner reported the expenses before the Department took any action to attempt to verify them. Upon sending out the verification checklist, Petitioner returned the requested documents within days. Upon the beginning of October of 2018, the Department had or should have had all information necessary to determine Petitioner's FAP benefits for the month of October of 2018. Based on a review of the facts and law, the Department clearly did not follow Department policy when processing Petitioner's reported childcare expenses. The Department must redetermine Petitioner's October of 2018 FAP benefits with the inclusion of her childcare expenses and issue her a supplement if she is due additional benefits.

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's October of 2018 FAP benefits amount.

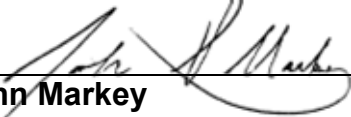
Accordingly, the Department's decision is **REVERSED**.

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. Redetermine Petitioner's October of 2018 FAP benefits amount with consideration of her childcare expenses that were verified via the October 3, 2018, verifications;
2. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits she may thereafter be due; and

3. Issue written notice of any case action(s) in accordance with Department policy.

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

Richard Latimore
4733 Conner
Detroit, MI 48215

Wayne County (District 57), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

