



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: November 16, 2018
MAHS Docket No.: 18-010768
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 Valarie Foley, Hearings Facilitator. During the hearing, a 26-page packet of documents was offered and admitted as Exhibit A, pp. 1-26.

ISSUE

Did the Department properly act on and take into account Petitioner's reported housing and medical expenses when calculating her Food Assistance Program (FAP) benefits for August 2018, ongoing?

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 recipient of FAP benefits.
2. Petitioner is disabled.
3. Petitioner's monthly income is \$750, all of which is unearned. Exhibit A, pp. 19-20.
4. Petitioner's monthly property taxes are \$[REDACTED]. Exhibit A, pp. 7-8.

5. Petitioner's monthly homeowner's insurance is \$69.05.
6. Petitioner repeatedly reported both her property taxes and her homeowner's insurance to the Department each month from June of 2018 through present. The Department, however, has only accounted for the property taxes in her FAP budget. Exhibit A, pp.19-20.
7. Petitioner repeatedly reported medical expenses to the Department by bringing in bills every month from June of 2018 through present. However, many of those bills were not accounted for when calculating Petitioner's monthly FAP benefits. During the hearing, the Department representative was unable to verify whether or not the reported bills should or should not have been included in the budgets.
8. On October 3, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was eligible for \$143 per month in FAP benefits, effective November 1, 2018, ongoing. Exhibit A, pp. 19-20.
9. On [REDACTED] 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's refusal to consider her property taxes, homeowner's insurance, or medical bills when calculating her 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 has sought a hearing regarding the Department's processing of a reported change of medical and housing expenses that could result in an increase in her FAP benefits.

Petitioner is disabled and receives Social Security Disability and is entitled to have medical expenses she incurs factored in as an expense to be applied to the calculation of her Food Assistance benefit allotment. BEM 554 (August 2017), pp. 8-12. Likewise, property taxes and homeowner's insurance are also to be factored into the FAP budget as housing expenses. BEM 554, p. 14.

Petitioner objects to the Department's decision to consider only some of her reported medical and housing expenses. At the hearing, the Department representative was conceded that part of Petitioner's reported homeowner's insurance should have been taken into consideration but was not. Furthermore, the Department was unable to explain why certain reported medical expenses were not factored into the budget. The Department conceded that it did not inform Petitioner that her submissions were insufficient to verify the expenses nor did it give Petitioner the opportunity to verify the reported expense.

The Department must verify reported changes in the source or amount of medical and housing expenses if the change would result in an increase in benefits. BEM 554, pp. 12, 14. In addition, if a reported change results in a benefit increase, the Department is required to act on a change reported within 10 days of becoming aware of the change. BAM 220 requires processing as follows:

Benefit Increases: Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. A supplemental issuance may be necessary in some cases. If necessary verification is **not** returned by the due date, take appropriate action based on what type of verification was requested. If verification is returned late, the increase must affect the month after verification is returned. BAM 220 (January 2018), p. 8-9.

Medical and housing bills were submitted by the Petitioner each month from June of 2018 through present. Petitioner's submissions obligated the Department to review and process the bills to determine the eligible medical and housing expenses. Part of that review is verification of the expenses. No request by the Department for verification of medical or housing expenses were presented at the hearing after the submissions of the expenses by Petitioner in June of 2018 and each month thereafter. The Department, for unknown and unexplained reasons, deemed Petitioner's submissions insufficient and refused to consider the reported expenses when calculating Petitioner's level of FAP benefits. The Department must at least allow Petitioner to verify allowable medical and housing expenses after submitting evidence of the expense.

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 processed the Petitioner's medical and housing bills.

DECISION AND ORDER

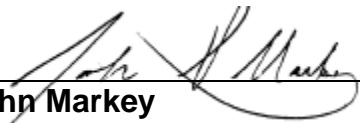
Accordingly, the Department's decision is **REVERSED**.

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. The Department shall process all Petitioner's reported medical and housing expenses pursuant to Department policy and law;
2. The Department shall allow Petitioner the opportunity to verify any reported medical or housing expenses that the Department receives and deems insufficiently verified;
3. The Department shall recalculate Petitioner's FAP benefits taking into consideration Petitioner's reported and verified medical and housing expenses, effective August 1, 2018;
4. If Petitioner is eligible for additional FAP benefits, the Department shall issue Petitioner a supplement;
5. The Department shall provide Petitioner with written notice of its determination.

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

Susan Noel
26355 Michigan Ave.
Inkster, MI 48141

Wayne County (District 19), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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