



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 22, 2019
MAHS Docket No.: 19-000979
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 March 20, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. Also appearing on behalf of Petitioner was witness [REDACTED]. The Department of Health and Human Services (Department) was represented by Natalie McLaurin, Hearings Facilitator.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits, effective November 1, 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 was an ongoing recipient of FAP benefits from the Department. Prior to November 1, 2018, Petitioner's FAP budget included a housing expense of \$250 and the heat and utility (h/u) standard of \$543.
2. On September 4, 2018, the Department issued to Petitioner a Mid-Certification Contact Notice to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Petitioner was instructed to return the completed form to the Department by October 1, 2018. Petitioner returned the completed form in late September 2018. Petitioner reported that nothing had changed with respect to his housing expenses or anything else. Exhibit A, pp. 4-6.

3. On October 31, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his monthly FAP benefits were being reduced to \$15, effective November 1, 2018. Included in the Notice of Case Action was a budget showing that the Department had removed from consideration Petitioner's housing expense and h/u standard. Exhibit A, pp. 7-10.
4. In December 2018, Petitioner contacted the Department by phone to inquire into why his monthly FAP benefits were reduced so dramatically starting in November. Petitioner was told that it was because his housing expenses and h/u standard were removed from his budget. Petitioner once again reported that nothing had changed from before regarding his housing expenses.
5. On December 17, 2018, the Department issued to Petitioner a Shelter Verification form. On December 26, 2018, the Department received the completed form indicating that Petitioner pays rent and is responsible for heating and cooling costs separate from his rent. Exhibit A, pp. 21-22.
6. On January 11, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that he was eligible for monthly FAP benefits of \$66, effective February 1, 2019. Again, a budget was included. This time, the budget reflected the verified housing expense of \$400 but once again failed to provide Petitioner the benefit of the h/u standard. Exhibit A, pp. 25-28.
7. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions with respect to his FAP benefits, effective November 1, 2018.

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 objects to the Department's redetermination of his monthly FAP benefits, effective November 1, 2018. The cause of the substantial reduction of Petitioner's FAP benefits was the result of the Department removing from the FAP budget the h/u standard and housing expenses. Prior to November 2018, those expenses were included in the budget. On the Mid-Certification Contact Report

submitted in September 2018, no changes were reported. There was no reasonable explanation provided as to why those expenses were removed starting in November 2018. The Department calculated Petitioner's FAP benefit amount for November of 2018, ongoing without taking into account his asserted and previously credited housing expenses and h/u standard.

The Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. 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.

In this case, the Department unilaterally removed the housing expense and h/u standard from Petitioner's budget despite Petitioner previously having those included in the budget and reporting no changes. Thus, at best, the question of housing expenses and utility obligations was unclear or incomplete, thus requiring the Department to issue a VCL to allow Petitioner the opportunity to verify the expenses he asserted responsibility for. The Department's failure to do so was a violation of Department policy. Thus, the Department is reversed. Additionally, Petitioner's verifications submitted upon the subsequent request satisfied any verification obligations. The Department, when redetermining Petitioner's FAP benefits, shall use the information provided in the timely submitted Shelter Verifications forms.

DECISION AND ORDER

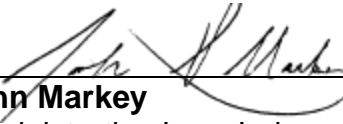
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP benefits, effective November 1, 2018, ongoing. 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 eligibility for FAP benefits, November 2018, ongoing, while including in the budget the \$400 verified housing expense and the applicable h/u standard;
2. If Petitioner is found to be eligible for any additional benefits after redetermining Petitioner's FAP eligibility, effective November 1, 2018, ongoing, issue to Petitioner a supplement; and

3. Notify Petitioner in writing of its decision.

JM/cg



John Markey
Administrative Law Judge
for Robert Gordon, 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

Via Email:

MDHHS-Saginaw-Hearings
M. Holden
D. Sweeney
BSC2- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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