



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 11, 2016
MAHS Docket No.: 16-002706
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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; 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 April 6, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly implement and certify a previous Decision and Order (D&O) regarding an administrative hearing held on December 9, 2015?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], Petitioner previously requested a hearing protesting the Department's action with regard to her Food Assistance Program (FAP) benefits.
2. On [REDACTED], an administrative hearing was held in which the undersigned Administrative Law Judge (ALJ) issued a hearing decision on [REDACTED] and ordered: (i) recalculate Petitioner's FAP budget for [REDACTED], ongoing; (ii) issue supplements to Petitioner or any FAP benefits she was eligible to receive but did not from [REDACTED], ongoing; and (iii) notify Petitioner of its decision (Reg. No. 15-019618).

3. Subsequent to the hearing, the Department recalculated Petitioner's FAP benefits and issued her supplements from [REDACTED], ongoing. See Exhibit A, pp. 8-10. However, the Department failed to determine if Petitioner was eligible for any supplements from [REDACTED]. See Exhibit A, pp. 8-10.
4. The Department failed to establish that it fully implemented the undersigned's original hearing decision issued on [REDACTED].
5. On [REDACTED], Petitioner requested another hearing to protest the Department's failure to process the undersigned's hearing decision issued on [REDACTED]. See Exhibit A, p. 2.

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 the present case, Petitioner requested a hearing to protest the Department's failure to process the undersigned's hearing decision issued on [REDACTED]. See Exhibit A, p. 2. The undersigned has determined that the Department failed to fully implement the undersigned's hearing decision issued on [REDACTED]. For example, the Department recalculated Petitioner's FAP benefits and issued her supplements from [REDACTED] ongoing. See Exhibit A, pp. 8-10. However, the undersigned ordered the Department to determine if Petitioner was eligible for any supplements from [REDACTED] ongoing. The Department failed to establish that it recalculated and issued any supplements she was eligible to receive but did not for [REDACTED]. See Exhibit A, pp. 8-10.

All hearing decisions must be recorded in the Department's system, on the Hearing Restore Benefits screen. BAM 600 (October 2015), p. 41. Some hearing decisions require implementation by the local office. BAM 600, p. 41. The Department implements a D&O within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 41. The Department completes the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. BAM 600, p. 42. The Department completes and sends the DHS-1843, Administrative Hearing Order Certification, to Michigan Administrative Hearing System (MAHS) to certify implementation and place a copy of the form in the case file. BAM 600, p. 42.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it failed to properly implement and certify the D&O sent on [REDACTED] (Reg. No. 15-019618). Yes, the Department partially implemented the hearing decision, for example, issuing FAP supplements from [REDACTED], ongoing. However, as shown in the example provided above, the Department ultimately failed to fully implement the undersigned's order regarding her FAP benefits for the month of March 2015. If the Department disagreed with the undersigned's hearing decision, then it could have appealed the hearing decision by filing a request for rehearing or reconsideration within 30 days of the mailing of the hearing decision issued on [REDACTED] or appeal the decision to circuit court. See BAM 600, pp. 38 and 43-46. However, there was no evidence that the Department appealed the undersigned's previous hearing decision. Because the Department failed to fully implement the undersigned's hearing decision and failed to appeal the hearing decision, the hearing decision issued on [REDACTED] is binding and the Department must implement the D&O in accordance with Department policy. See BAM 600, pp. 41-42.

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 did not act in accordance with Department policy when it failed to fully and properly implement the D&O issued on December 9, 2015 (Reg. No. 15-019618).

Accordingly, the Department's FAP 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. Implement and certify the D&O mailed on [REDACTED], from the previous administrative hearing (Reg. No. 15-019618), in accordance with Department policy.

EF/hw



Eric Feldman

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) 335-6088; 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

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]