



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: April 29, 2016
MAHS Docket No.: 16-004150
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 27, 2016, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Eligibility Specialist [REDACTED]. Testimony was received from all participants. Department's Exhibit A, pages 1-7 was admitted into evidence.

ISSUE

Did the Department properly stop Petitioner's Food Assistance Program (FAP) benefits on September 30, 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. Petitioner was an ongoing recipient of Food Assistance Program (FAP) benefits under the Simplified Reporting category. Petitioner's FAP benefit group consisted of only herself.
2. On August 3, 2015, Petitioner was sent a Semi-Annual Contact Report (DHS-1046) which was to be returned by September 1, 2015.
3. On November 6, 2015, Petitioner submitted the Semi-Annual Contact Report (DHS-1046). On the report Petitioner reported: a change of address; expansion of the household to include [REDACTED] and their child in common, [REDACTED]; and a change in household earned income.

4. On December 28, 2015, Petitioner was sent a Verification Checklist (DHS-3503).
5. On January 4, 2016, Petitioner submitted December 2015 pay check stubs for [REDACTED]
6. On March 24, 2016, Petitioner submitted a hearing request because she had not received any Food Assistance Program (FAP) benefits since September 2015.
7. On April 7, 2016, the Department ran a Food Assistance Program (FAP) financial eligibility budget and determined that Petitioner's Food Assistance Program (FAP) should close due to being over income.

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.

Bridges Administration Manual (BAM) 210 Redetermination/Ex Parte Review provides that a Food Assistance Program (FAP) recipient under Simplified Reporting with a 12 month certification period is sent a Semi-Annual Contact Report (DHS-1046) in the beginning of the fifth month. The following provisions are on pages 9 & 12:

12-Month Benefit Period

The semi-annual contact report must be recorded, data collection updated and EDBC results certified in Bridges by the last day of the sixth month of the benefit period to affect benefits no later than the seventh month. The contact is met by receipt of a completed DHS-1046 and required verifications.

Failure to Record Receipt of the Semi-Annual Contact Report

If the DHS-1046 is not logged in Bridges by the 10th day of the sixth month, Bridges will generate a DHS-1046A, Potential Food Assistance (FAP) Closure, to the client. This reminder notice explains that the client must return the DHS-1046 and all required verifications by the last day of the month, or the case will close.

If the client fails to return a complete DHS-1046 by the last day of the sixth month. Bridges will automatically close the case. If the client reapplies, treat it as a new application and Bridges will prorate the benefits.

If the completed DHS-1046 and verifications are returned by the last day of the sixth month, process the changes to ensure the client's benefits are available no later than 10 days after their normal issuance date in the seventh month of the benefit period.

It is noted that the Semi-Annual Contact Report (DHS-1046) sent to Petitioner on August 3, 2015 states "You must complete this form, sign and date it, and return it to your specialist with proof of changes by 09/01/2015, or your Food Assistance case will close effective 09/30/2015."

Petitioner testified that she turned the Semi-Annual Contact Report (DHS-1046) in on October 1, 2015. It is noted that the Semi-Annual Contact Report (DHS-1046) in evidence was signed by Petitioner and dated 11/5/15 by her signature. The Semi-Annual Contact Report (DHS-1046) in evidence is date stamped into the Department's local office on November 6, 2015. Based on these facts, it is found that Petitioner submitted the Semi-Annual Contact Report (DHS-1046) on November 6, 2015.

During this hearing the Department representative testified that Petitioner had not been issued any Food Assistance Program (FAP) benefits since September 2015 but her case did not close because the Semi-Annual Contact Report (DHS-1046) was not marked as complete in BRIDGES. The Food Assistance Program (FAP) not closing would be inconsistent with the Department's policy cited above. There is no evidence in the record on whether a DHS-1046A, Potential Food Assistance (FAP) Closure was sent to Petitioner on September 10, 2015 as required by BAM 210 and cited above. A Notice of Case Action (DHS-1605) would not be issued even if the Food Assistance Program (FAP) was closed on September 30, 2015.

The Hearing Summary (DHS-3050) states that the Semi-Annual Contact Report (DHS-1046) was submitted in November, the case had not closed so the supervisor had the worker process the Semi-Annual Contact Report (DHS-1046) in December. The Summary also states that a Verification Checklist (DHS-3503) was sent out on December 28, 2015 but a copy was not submitted into evidence by the Department. The Summary also states the worker processed checklist for paystubs and assets 3/28/16. That was after the hearing request was received on March 24, 2016. The hearing request Petitioner submitted on March 24, 2016 states "It's been more than 6 months been waiting on food stamps haven't got any call backs from case worker or supervisor in over last 45 days left messages and email."

The evidence in this record does not provide proof of what actually happened to Petitioner's Food Assistance Program (FAP). If Petitioner's Food Assistance Program (FAP) was in fact closed on September 30, 2015, the March 24, 2016 hearing request should be dismissed because it was not submitted within 90 calendar days of the DHS-


1046A, Potential Food Assistance (FAP) Closure notice sent on September 10, 2015. However, the evidence is insufficient to make that determination.

The evidence in this record combined with Department policy is sufficient to determine that Petitioner's Food Assistance Program (FAP) should have closed on September 30, 2015. There is no evidence in the record that shows the activity centered on the Semi-Annual Contact Report (DHS-1046) Petitioner submitted after September 30, 2015, was required by Department policy. 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 Petitioner's Food Assistance Program (FAP) benefits properly ended on September 30, 2015.

DECISION AND ORDER

Accordingly, the termination of Petitioner's Food Assistance Program (FAP) benefits on September 30, 2015 is **AFFIRMED**.

GH/nr



Gary Heisler
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]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]