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: May 5, 2016 MAHS Docket No.: 16-004453

Agency No.: Petitioner:

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

# **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 May 4, 2016, from Lansing, Michigan. The Petitioner appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Eligibility Specialist

#### **ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits?

### FINDINGS OF FACT

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

- Petitioner was an on-going FAP recipient when he submitted a Semi-Annual Contact Report (Exhibit 1 Page 1) and disclosed to the Department that he had earned wages in 2015 (Exhibit 1 Pages 3-4).
- On February 22, 2016, the Department mailed to him a Verification Checklist (Exhibit 1 Pages 12-15) that needed to be completed and returned by March 3, 2016, or his FAP would be closed.
- 3. Petitioner assumed that the documentation he provided was sufficient to show that he no longer was employed so he did not respond to the Checklist.

- 4. On March 9, 2016, after not receiving the verification, the Department mailed a Notice of Case Action (Exhibit 1 Pages 16-19) informing him that his FAP was closed due to his failure to verify.
- 5. On March 16, 2016, the Department received Petitioner's hearing request.

# **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.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, or

The time period given has elapsed and the client has **not** made a reasonable effort to provide it.

The issue is whether the Petitioner cooperated, or made a reasonable effort to cooperate, with the Department in determining her eligibility.

In this case, Petitioner believed he had already submitted adequate documentation to show that his job had ended, so he chose not to respond to the request. The request made it clear that his FAP was in jeopardy if he did not respond. He took a chance, but the chance did not pay off. As promised, when he failed to respond by the deadline, his FAP was closed.

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 acted in accordance with Department policy when it closed Petitioner's FAP.

# **DECISION AND ORDER**

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

DJ/mc

Darryl Johnson

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

