



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 5, 2016
MAHS Docket No.: 16-004494
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 her own behalf along with [REDACTED], a member of her group. The Department of Health and Human Services (Department) was represented by Assistance Payments Supervisor [REDACTED] and Assistance Payments Worker [REDACTED].

ISSUE

Did the Department properly deny Claimant's application for 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:

1. On March 15, 2016, the Department received a FAP application from Claimant.
2. Within the application it was disclosed that [REDACTED], her fiancé, was the beneficiary of an irrevocable trust created by his biological mother.
3. On March 17, 2016, the Department conducted a phone interview with Claimant and her fiancé during which they discussed the requirement that the trust agreement be provided for review by the Department.

4. [REDACTED] advised the Department that he does not readily have access to the trust documentation, and that he has to ask a board to provide the documentation.
5. On March 23, 2016, the Department submitted the available information to the Trust and Annuities Department (TAD) for review.
6. On March 29, 2016, the TAD instructed the Department to request a copy of the trust from [REDACTED].
7. On March 30, 2016, [REDACTED] was called and the request was made that he provide a copy of the Trust Agreement but he said that he did not want to risk jeopardizing his on-going ability to receive income from the trust so he was not willing to provide the documentation.
8. On March 31, 2016, the Department mailed a Notice of Case Action (Exhibit 1 Page 15) informing Claimant that her application was denied in part because of the failure to verify the Trust Agreement.
9. On April 5, 2016, the Department received Claimant'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 Claimant cooperated, or made a reasonable effort to cooperate, with the Department in determining her eligibility.

In this case, Claimant's fiancé, who is a part of her FAP group, chose not to provide documentation regarding the Revocable Trust. For reasons of his own, he did not want to "bite the hand" that feeds him. He asked once in the past for documentation and was told he could not get it. However, this is an irrevocable trust based upon an agreement dated [REDACTED]. According to [REDACTED], disbursements to him are at the trustee's discretion. That might or might not be true, and that is one of the reasons that the trust agreement needs to be provided: so the Department can determine how much income is available to him each month. There simply cannot be an irrevocable trust agreement by which payments are made to him unless there is some underlying written agreement. In this case, [REDACTED] indicated a refusal to provide the verification.


During the hearing it was explained that [REDACTED] needs to make an attempt to obtain the verification, and if he is unsuccessful, he can ask the Department for help. If they are also unsuccessful, then the Department will have to work with the available information to determine the group's eligibility. What he cannot do, and expect to receive benefits, is to simply say that he does not want to rock the boat with the trustees so he will not ask for the documentation.

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 denied the FAP application.

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

DHHS

[REDACTED]

Petitioner

[REDACTED]