



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 19, 2016
MAHS Docket No.: 16-005192
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], [REDACTED] from Detroit, Michigan. The Petitioner was represented by [REDACTED] who served as her Authorized Representative (AR) and [REDACTED] translator. The Petitioner also appeared. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close the Petitioner's Food Assistance Program (FAP) for failure to provide asset information of a closed [REDACTED] account?

FINDINGS OF FACT

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

1. The Petitioner was an ongoing recipient of FAP benefits.
2. A Redetermination was sent to the Petitioner on [REDACTED], and was returned completed on [REDACTED], with an attached bank statement for [REDACTED].
3. The Redetermination Form was returned timely.

4. The Redetermination was signed by the Petitioner's AR, [REDACTED]. Also filed with the Redetermination was a filing record also signed by the AR. Exhibit 1.
5. A telephone interview was conducted on [REDACTED], with the Petitioner and her AR.
6. A Verification Checklist (VCL) was sent to the Petitioner on [REDACTED], requesting verification of 30 days of paystubs and to provide verification for [REDACTED] with financial institution [REDACTED] and/or have financial institution complete a DHS-20 assets attached if account is closed... Exhibit 5.
7. A Notice of Case Action dated [REDACTED], was sent to the Petitioner closing the Petitioner's FAP case effective [REDACTED]. The reason for the closure was failure to verify bank checking account, was not returned for Petitioner. Exhibit 7.
8. An Employment Verification was received by the Department from the Petitioner's Employer on [REDACTED]. Exhibit 8.
9. The VCL, referenced in paragraph 6, and the Notice of Case Action, referenced in paragraph 7, were not sent to the Petitioner's AR.
10. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's action.

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, the Department closed the Petitioner's FAP case for failure to complete a verification request for a closed bank account with the [REDACTED]. At all times relevant to this matter, the Petitioner was represented by an AR who also served as an [REDACTED] translator, as the Petitioner does not speak English. The Department was advised that the Petitioner had an AR as the AR signed both the Redetermination and the FAP Benefits Redetermination Filing Record, which contained her name and contact

information. Exhibit 1. The Department also spoke with the Petitioner and her AR on [REDACTED], and thus, was aware that the Petitioner was represented. The Department sent a VCL to the Petitioner on [REDACTED]. Exhibit 5. The VCL was not sent to the AR. Attached to the VCL was an Asset Verification Form, and a Verification of Employment Form to be completed.

The Petitioner credibly testified that she never provided the forms attached to the VCL to her AR. While at her doctor's office, the Petitioner asked her doctor what she should do with the Verification of Employment Form. Her doctor told her to give it to her employer. The Petitioner also credibly testified that she did not show the form to her AR because she thought the AR had received the forms.

Given the fact that the AR did not receive the VCL, as it was not mailed to her as required by Department policy, the Department's request that the Petitioner verify that the [REDACTED] closed account was closed was not timely provided to the AR. Thereafter, the fact that the Notice of Case Action closing the Petitioner's FAP sent on [REDACTED], was not also received by the AR, the AR was not afforded an opportunity to respond and provide the missing bank account information. The AR credibly testified that she believed all the information requested had been provided because she provided the [REDACTED] information with the Redetermination when she filed it with the paystubs for Petitioner and had never seen the Verification of Employment or the VCL.

An authorized representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (for example, to obtain FAP benefits for the group).

The AR assumes all the responsibilities of a client; see BAM 105. BAM 110, (January 1, 2016), p. 9.

An authorized representative must be one of the following:

- Designated in writing by the individual.

Department policy found in BAM 105 requires that the AR must cooperate with the local office and complete all necessary forms. In order to do so, the AR must be provided all documents provided to the client. In this case the AR did not receive the VCL or the Notice of Case Action denying the FAP, and thus, was not given the opportunity to cooperate. Department policy defines the responsibility of an AR as the same as the client:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item.

Clients must completely and truthfully answer all questions on forms and in interviews.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information.

Clients must also cooperate with local and central office staff during quality control (QC) reviews. BAM 105 (April 1, 2016), p. 9

An Authorized Representative is charged with providing eligibility information on behalf of a client and is defined as “A person who makes application or provides eligibility information on behalf of a client.” BPG (October 1, 2015), p. 7.

Thus, because the Petitioner’s AR did not receive the VCL or the Notice of Case Action dated [REDACTED], closing the FAP case, the Department did not comply with Department policy as the AR could not complete forms and documents it did not receive.

At the conclusion of the hearing, the Department was requested to provide the Petitioner’s Exhibit A, discussed at the hearing. The Department contacted the person assigning hearings for MAHS and advised that she could not fax the documents because the AR left with the documents and said that she would fax the documents on her own. Although the AR should have given the documents to the Department to fax, at the time this Decision was completed, the documents were not received; and this Decision is based upon the fact that the VCL was not sent to the AR and that the Notice of Case Action also was not sent to the AR. Therefore, Petitioner’s Exhibit A does not change the outcome of the Decision; and the AR should have provided the documents for the Department to fax so the evidence as presented at the hearing would have been preserved as such and as presented.

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 provide the AR the Verification Checklist and the Notice of Case Action regarding the denial of the FAP application.

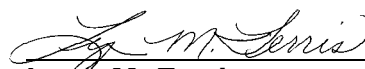
DECISION AND ORDER

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. The Department shall reinstate the Petitioner's FAP case as of the date of closure and process the redetermination so that it can be completed.
2. The Department shall provide the AR a request for verification by VCL requesting the AR provide the requested information regarding the [REDACTED] Bank closed account.
3. The Department shall issue a FAP supplement to the Petitioner, if any is due, in accordance with Department policy.
4. The Department shall provide the client and the AR copies of its written communications and any eligibility determination.

LMF/jaf



Lynn M. Ferris
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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]

cc:

[REDACTED]