



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 29, 2016
MAHS Docket No.: 16-006656
Agency No.: [REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 June 15, 2016, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly determine that the Petitioner was not eligible for Food Assistance Program (FAP) benefits due to failure to provide required verifications?

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 September 1, 2015, the Petitioner FAP case was closed in error due to excess assets. Department Exhibit 1, pgs. 2-4.
2. On January 12, 2016, the Petitioner re-applied for FAP benefits.
3. On February 1, 2016, the Department sent the Petitioner a denial for FAP benefits due to excess assets in error. Department Exhibit 1, pgs. 9-10.
4. On May 10, 2016, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

5. On May 18, 2016, the Department sent the Petitioner a Verification Checklist, DHS 3503, to provide required verifications to redetermine FAP eligibility retroactive to October 1, 2015 that was due May 31, 2016. Department Exhibit 1, pgs. 14-17.

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 Petitioner FAP case was closed in error due to excess assets on September 1, 2015. Department Exhibit 1, pgs. 2-4. On January 12, 2016, the Petitioner re-applied for FAP benefits. On February 1, 2016, the Department sent the Petitioner a denial for FAP benefits due to excess assets in error. Department Exhibit 1, pgs. 9-10. On May 10, 2016, the Department received a hearing request from the Petitioner, contesting the Department's negative action. On May 18, 2016, the Department sent the Petitioner a Verification Checklist, DHS 3503, to provide required verifications to redetermine FAP eligibility retroactive to October 1, 2015 that was due May 31, 2016. Department Exhibit 1, pgs. 14-17. BEM 400.

During the hearing, the Petitioner vacillated as to whether or not she needed an interpreter or not. She stated that her husband's car was not running and he was just fixing it as a hobby or something to tinker with so she did not provide a copy of the title as required by the Department. The Petitioner did not understand that it still had value. However, the Department has access to the Secretary of State (SOS) system to pull up the title. The Department was aware of the language barrier and the problems with this case previously. The husband's title was the only thing missing since everything else had been submitted. The Department could have pulled the title off of the SOS system and determined the asset value using the blue book. The Department should always use an interpreter with this Petitioner even though her English is pretty good some things still get lost in translation.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it

did not use the SOS system to pull the Respondent's husband's title since she misunderstood that it was needed.

DECISION AND ORDER

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

1. 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 of initiating a redetermination of the Petitioner's eligibility for FAP retroactive to October 1, 2015, by sending out a new Verification Checklist, DHS 3503, for the Petitioner's husband's title of his car or querying the SOS system for a copy of the title and determining the blue book value
2. Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she/he may be eligible to receive, if any.

Carmen G. Fahie

Carmen G. Fahie

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

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]