



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: July 26, 2016
MAHS Docket No.: 16-006971
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 27, 2016, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) and Family Independence Program (FIP) 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. Petitioner applied for FIP and FAP benefits on May 5, 2016.
2. Petitioner stated on the application that she was attending college full-time, but was also employed 20 hours per week.
3. An interview was scheduled with Petitioner for May 10, 2016.
4. The notice of interview was mailed on May 6, 2016, a Friday.
5. Petitioner did not receive the notice of interview until May 11, 2016.

6. Petitioner missed the interview.
7. The notice of missed interview stated that Petitioner had until June 4, 2016 to reschedule the interview.
8. On May 11, 2016, Petitioner's application for FIP and FAP benefits were denied.
9. FIP was denied due to a lack of eligible group members; FAP was denied because Petitioner was a full-time college student.
10. No request for verification was sent out to determine if Petitioner met one of the exceptions for FAP eligibility with regard to full-time student status.
11. On May 17, 2016, Petitioner requested an administrative hearing.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

With regard to the FIP determination, Petitioner stated on the record that she had no grievance with the Department. As such, the undersigned dismisses the FIP portion of Petitioner's request for hearing.

With regard to the FAP grievance, the undersigned holds that the Petitioner's FAP application was in no way processed correctly.

The official notice of denial states that Petitioner's application was denied because Petitioner was a full-time student. However, BEM 245, in regard to student status, states

that an exception to FAP ineligibility for student status is if the client is employed for at least 20 hours per week. Petitioner alleged employment of 20 hours per week. Thus, denying for student status was improper.

While the Department alleges that Petitioner never provided supporting documentation of employment, the undersigned notes that the Department never asked for such documentation. Per BAM 130, if an eligibility factor is unclear, verification is to be requested. If the Department never requested such verification, the lack of verification cannot be used as a reason for denial. If the Department did not believe that Petitioner was working 20 hours per week, it was incumbent upon the Department to request verification; they did not do so. Therefore, the decision to deny Petitioner's application for student status when it had failed to request any verifications was incorrect.

Furthermore, there are other policy violations in the current denial. Petitioner's application was denied on May 11, 2016, which was six days after the application date. Per policy found in BAM 115, pg. 18 (2016), a FAP application may not be denied if the client has not participated in a scheduled initial interview until the 30th day after application. There are no exceptions for this rule. Petitioner had not participated in an interview; therefore the application could not have been denied until June 4, 2016 at the very latest, a fact that the Petitioner was informed of in the Notice of Missed Interview generated on May 10, 2016. Denying Petitioner's application before the 30 day time requirement was a violation of policy.

Furthermore, the same policy states that an interview is required before denying assistance, even if it is clear from the application or other sources that the group is ineligible. Thus, even if it was clear that the Petitioner was ineligible due to student status, no denial of assistance could have been established until an interview was conducted. Thus, the Department also violated policy by denying the application before conducting an interview.

The undersigned counts at least three policy violations committed by the Department when denying Petitioner's application: 1) Failing to request verification of Petitioner's student status and denying eligibility even though Petitioner alleged employment of 20 hours per week; 2) denying the application before 30 days had passed with no interview, and; 3) denying the application with no interview. As such, the undersigned holds that Petitioner's FAP application was incorrectly processed, and must be reopened retroactive to the date of application.

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 denied Petitioner's May 5, 2016 FAP application.

DECISION AND ORDER

Accordingly, the Department's decision with regard to Petitioner's FAP benefits is **REVERSED**.

The Petitioner's request for hearing with regard to FIP benefits is DISMISSED, for the reasons stated in the Conclusions of Law.

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. Reprocess Petitioner's May 5, 2016 FAP application.

RC/tm



Robert J. Chavez
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

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