



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 19, 2016
MAHS Docket No.: 16-007894
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 July 13, 2016, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine the Petitioner's eligibility 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. The Petitioner was a recipient of FAP benefits.
2. On May 24, 2016, the Petitioner reapplied for FAP, Child Development and Care (CDC) benefits, and Health Care Coverage (MA). Department Exhibit 1, pgs. 1-26.
3. On May 25, 2016, this Administrative Law Judge affirmed the Department because they reinstated the Petitioner's FAP case that was closed in error, but pending a fee referral investigation.

4. On June 6, the Department received a hearing request from the Petitioner contesting the Department's negative action.
5. On June 20, 2016, the Department sent the Petitioner a Notice of Case of Action, which her FAP, MA, and CDC application was denied for failure to cooperate with the Office of Child Support and failure to submit verification of unearned income payment verification. Department Exhibit 1, pgs. 51-54.

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 was a recipient of FAP benefits. On May 24, 2016, the Petitioner reapplied for FAP, Child Development and Care (CDC) benefits, and Health Care Coverage (MA). Department Exhibit 1, pgs. 1-26. On May 25, 2016, this Administrative Law Judge affirmed the Department because they reinstated the Petitioner's FAP case that was closed in error, but pending a fee referral investigation. On June 6, the Department received a hearing request from the Petitioner contesting the Department's negative action. On June 20, 2016, the Department sent the Petitioner a Notice of Case of Action, which her FAP, MA, and CDC application was denied for failure to cooperate with the Office of Child Support and failure to submit verification of unearned income payment verification. Department Exhibit 1, pgs. 51-54. BAM 130 and 220. BEM 400, 503, and 554.

During the hearing, the Department stated that the Petitioner's case has been closed and reinstated several times. This Administrative Law Judge rules that when the case was reinstated it would be back to the first time the case was reinstated because the no decision has been made and no benefits have been given. The first reinstatement is from April 26, 2016. The last verification checklist was sent out on July 6, 2016 with a due date of July 18, 2016. The only verification missing currently is the Petitioner's daughter final paycheck, copy of the Petitioner's daughter work bank card, and the balance on the card through ATM inquiry.


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 failed to process the Petitioner's FAP benefits since April 26, 2016.

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 of initiating a redetermination of the Petitioner's eligibility for FAP retroactive to April 26, 2016 based on verifications due on July 18, 2016.

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]

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