



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: July 22, 2016  
MAHS Docket No.: 16-008207  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

### **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. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

During the Hearing Proceedings, the Department's Hearing Summary Packet was admitted as Exhibit A, pp. 1-35.

### **ISSUE**

Is there jurisdiction to address the March 3, 2016, Notice of Case Action regarding Petitioner's Food Assistance Program (FAP) case?

Did the Department properly determine Petitioner's eligibility for FAP when the outstanding verification was submitted on March 22, 2016?

### **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's FAP case closed based upon a failure to return a requested verification, the DHS-38 Verification of Employment, by a due date of February 22, 2016. (Exhibit A, p. 2; Hearing Facilitator Testimony)

2. On March 22, 2016, Petitioner returned the DHS-38 Verification of Employment to the Department. (Exhibit A, pp. 2 and 7-8)
3. There is no evidence that the Department re-determined Petitioner's eligibility for FAP when the DHS-38 Verification of Employment was received on March 22, 2016.
4. On June 4, 2016, at 11:26 pm, Petitioner re-applied for FAP. (Exhibit A, pp. 14-32)
5. Petitioner's June 4, 2016 FAP application was approved.
6. On June 14, 2016, Petitioner filed a hearing request regarding FAP. (Hearing Request)
7. Petitioner does not contest the amount of the FAP benefits from the approval of her June 2016 application. (Petitioner Testimony)

### **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.

#### **Jurisdiction to address the March 3, 2016, Notice of Case Action**

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

BAM 600 addresses the deadline for requesting a hearing:

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days.

BEM 220, October 1, 2015, p. 6.

In this case, Petitioner's hearing request was received by the local Department office on June 14, 2016. (Hearing Request) This was more than 90 days from the March 3, 2016, Notice of Case Action. Accordingly there is no jurisdiction to review the FAP case action from the March 3, 2016, Notice of Case Action.

However, there would be jurisdiction to review the Department's alleged failure to act on a claim for benefits when the outstanding verification was submitted on March 22, 2016.

Determining Petitioner's eligibility for FAP when the outstanding verification was submitted on March 22, 2016

BAM 210 addresses FAP client failure to meet Redetermination requirements:

### **Delays**

The group loses its right to uninterrupted FAP benefits if it fails to do any of the following:

- File the FAP redetermination by the timely filing date.
- Participate in the scheduled interview.
- Submit verifications timely, provided the requested submittal date is **after** the timely filing date.

Any of these reasons can cause a delay in processing the redetermination. When the group is at fault for the delay, the redetermination must be completed within 30 days of the compliance date.

If there is no refusal to cooperate and the group complies by the 30th day, issue benefits within 30 days of the compliance date. Benefits are not prorated.

### **Subsequent Processing**

If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. Proceed as follows if the client takes the required action within 30 days after the end of the benefit period:

- Re-register the redetermination application using the date the client **completed** the process.
- If the client is eligible, prorate benefits from the date the redetermination application was registered.

BAM 210, January 1, 2016, pp. 18-19.

Petitioner's FAP case closed based upon a failure to return a requested verification, the DHS-38 Verification of Employment, by a due date of February 22, 2016. (Exhibit A, p. 2; Hearing Facilitator Testimony)

On March 22, 2016, Petitioner returned the DHS-38 Verification of Employment to the Department. (Exhibit A, pp. 2 and 7-8) However, there is no evidence that the Department re-determined Petitioner's eligibility for FAP when the DHS-38 Verification of Employment was received on March 22, 2016. The failure to re-determine eligibility for FAP when the outstanding verification was returned was not in accordance with the BAM 210 policy.

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 re-determine Petitioner's eligibility for FAP when the DHS-38 Verification of Employment was received on March 22, 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:

1. Re-determine Petitioner's eligibility for FAP as of March 22, 2016, in accordance with Department policy.

CL/mc



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**Colleen Lack**  
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]