



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]
[REDACTED]

Date Mailed: September 2, 2016
MAHS Docket No.: 16-010867
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 August 31, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. Her mother, [REDACTED], appeared as her witness. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED], Assistance Payment Supervisor, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

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 was an ongoing recipient of FAP benefits.
2. On April 11, 2016, Petitioner received a redetermination telephone interview form, DHS-574, advising her that she had to submit a completed redetermination form in order to complete a telephone interview scheduled on May 3, 2016 (Exhibit A).
3. Petitioner did not submit a completed redetermination form (Exhibit C).
4. The Department did not call Petitioner for an interview on May 3, 2016.

5. On May 3, 2016, the Department sent Petitioner a Notice of Missed Interview, advising her that she had missed her scheduled interview and would have to reschedule the interview before May 31, 2016 or her redetermination would be denied (Exhibit B).
6. On May 31, 2016, Petitioner's FAP case closed for failure to submit a completed redetermination.
7. On August 1, 2016, the Department received Petitioner's request for hearing disputing the closure of her FAP case.

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.

Petitioner disputed the closure of her FAP case. The Department testified that Petitioner's FAP case closed effective May 31, 2016 because she had failed to submit a completed redetermination. A client must complete a redetermination at least every 12 months in order for the Department to determine the client's continued eligibility for benefits. BAM 210 (January 2016), p. 1. Under Department policy, the Department sends the client a redetermination packet three days prior to the negative action cut-off date in the month before the redetermination is due. BAM 210, p. 6. The redetermination sent to a client may include a DHS-574, redetermination telephone interview form. BAM 210, p. 6. A completed redetermination form must be obtained from the client before an interview is conducted. BAM 210, p. 12. If a FAP redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the client's FAP case. BAM 210, p. 11.

In this case, the Department presented a copy of the redetermination telephone interview form, DHS-574, sent to Petitioner on April 11, 2016 and testified that a DHS-1010, redetermination form was also sent to her at the same address on the same day. Petitioner acknowledged receiving the DHS-574 but testified that she did not receive any DHS-1010 redetermination form. The Department did not produce a copy of the

redetermination form sent to Petitioner or a printout from its system showing documents it had sent to her to establish that the redetermination form was sent. Therefore, the Department failed to establish that it sent Petitioner a redetermination form as required by Department policy.

Furthermore, even though the DHS-574 references the redetermination form and advises Petitioner that a completed redetermination form was required to complete the interview, Petitioner credibly testified that she called her worker beginning May 4, 2016 concerned about the status of her FAP case and requesting assistance. She provided a call log that the worker confirmed showed several calls placed to her between May 4, 2016 and May 31, 2016 (Exhibit 1). The Department has an obligation to assist a client when requested. BAM 105 (April 2016), p. 15. The evidence in this case established that Petitioner requested assistance with her FAP case prior to the May 31, 2016 case closure but none was provided.

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 closed Petitioner's FAP case.

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. Reinstate Petitioner's FAP case effective June 1, 2016;
2. Allow Petitioner to complete a redetermination;
3. If a redetermination (and any requested verifications) is timely submitted, process the redetermination (and verifications) in accordance with policy;

4. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from June 1, 2016 ongoing; and
5. Notify Petitioner in writing of its decision.



ACE/tlf

Alice C. Elkin

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]
[REDACTED]
[REDACTED]

Petitioner

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

Via Electronic Mail:

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