



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: September 29, 2016
MAHS Docket No.: 16-012136
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator. The Office of Child Support (OCS) did not appear at the hearing.

ISSUE

Did the Department properly process the Petitioner's Food Assistance Program (FAP) application?

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 applied for FAP benefits on [REDACTED].
2. The Department issued a Verification Checklist (VCL) dated [REDACTED], with a due date of [REDACTED]. Exhibit A. The VCL required the Petitioner to contact the OCS to comply with child support requirements.
3. The Petitioner contacted the OCS on [REDACTED], and provided a name and a birth date of an individual who she believed was the father of her child.

4. At the time of the Petitioner's hearing request, the Department had not processed the Petitioner's FAP application; and the FAP case was pending.
5. At the time of the Petitioner's [REDACTED], application, the Petitioner was found to be in noncooperation; and a noncooperation sanction was imposed on [REDACTED] by the OCS.
6. The Petitioner requested a hearing on [REDACTED].

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, at the time of the hearing, the Department had not denied the Petitioner's FAP application as the Petitioner was required to verify contact with the OCS and to comply with child support requirements. The Department had issued a VCL on [REDACTED], which was due [REDACTED] Exhibit A. The Petitioner requested a hearing on [REDACTED], even though the Department had not taken action to deny the FAP application. The Petitioner credibly testified that she contacted the OCS on [REDACTED], and provided a name ([REDACTED]) and birth date ([REDACTED]) as the father of her child and was told she had not provided sufficient information to be put in cooperation. At the time, the Petitioner requested her hearing on [REDACTED] [REDACTED], although the OCS did not change its determination of noncooperation, the Department had not denied the Petitioner's application; and thus, the Department had not taken an action either approving or denying the Petitioner's FAP application.

The Department is required to allow the Petitioner 10 days to provide verifications at application regarding noncooperation sanctions by the OCS. The Petitioner responded to the verification request before the due date, but apparently that contact resulted in no change in the OCS determination of noncooperation as a result of the Petitioner's contacting OCS. Department policy provides:

At application, client has 10 days to cooperate with the OCS.
Bridges informs the client to contact the OCS in the

verification check list (VCL). The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true:

- There is a begin date of non-cooperation in the absent parent logical unit of work.
- There is **not** a subsequent comply date.
- Support/paternity action is still a factor in the child's eligibility. BEM 255 P.12.
- Good cause has not been granted nor is a claim pending; see **Good Cause For Not Cooperating** in this item. BEM 255 (April 1, 2015), p. 12.

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. The remaining eligible group members will receive benefits. BEM 255, p.14.

In this case, the Department is required to process all applications. Here, the Department never completed the processing of the application as the request for hearing was made prior to the date the VCL was due. Exhibit A. The Petitioner's noncooperation sanction from [REDACTED], was still active at the time of the hearing. The Department must process applications and requests for member adds as quickly as possible, with priority to the earliest application date so that the standard of promptness is met, which begins the date the Department receives the application. BAM 115 (October 1, 2016), p. 15. FAP benefits must be available by the 30th day for regular FAP. Available means clients must have a Bridge card and access to their benefits. In this case, the regular FAP due date for the Standard of Promptness is 29 calendar days after the application date, which in this case would have been [REDACTED]. BAM 115, pp. 15-16.

If the group is ineligible **or** refuses to cooperate in the application process, certify the denial within the standard of promptness to avoid receiving an overdue task in Bridges.

Bridges sends a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, BAM 115, p.23.

In this case, the Department must complete processing the Petitioner's FAP application and finalize its eligibility determination at which time the Petitioner may request a hearing if she so chooses on that decision. Given the facts presented, a determination

cannot be made as to whether the OCS properly determined whether the Petitioner remained in noncooperation; because at the time of the hearing, no action regarding the Petitioner's failure to cooperate had been taken with respect to the approval or denial of the Petitioner's FAP application, even though there was some discussion regarding the paternity of the Petitioner's child at the hearing.

DECISION AND ORDER

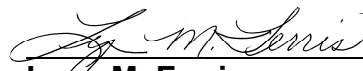
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department **did not** comply with Department policy as it failed to process the Petitioner's FAP application in accordance with Department policy.

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. The Department shall complete the processing of the Petitioner's FAP application and determine Petitioner's eligibility.
2. The Department shall supplement the Petitioner's FAP benefits, if any, that her FAP group was entitled to receive in accordance with Department policy.

LMF/jaf



Lynn M. Ferris

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]

Department Representative

[REDACTED]

Petitioner

[REDACTED]

Via email

[REDACTED]