



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: November 29, 2016
MAHS Docket No.: 16-015705
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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, an in-person hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator. [REDACTED] served as translator during the hearing.

ISSUE

Did the Department properly implement and certify a previous hearing decision issued on [REDACTED]?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], Petitioner previously filed a hearing request, protesting the Department's denial of her Food Assistance Program (FAP) application dated [REDACTED]. Exhibit B, pp. 1-6.
2. On [REDACTED], an administrative hearing was held in which the undersigned Administrative Law Judge (ALJ) issued a hearing decision on [REDACTED], and ordered the Department to do the following: (i) initiate reregistration and reprocessing of Petitioner's FAP application dated [REDACTED]; (ii) issue supplements to Petitioner for any FAP benefits she was eligible to receive but did

- not from [REDACTED], ongoing; and (iii) notify Petitioner of its decision (Reg. No. [REDACTED]). Exhibit B, p. 4.
3. The hearing decision further stated that the Department must begin complying with the hearing decision within 10 days of the date of the mailing of the hearing decision. Exhibit B, p. 4.
 4. The hearing decision was mailed on [REDACTED], which meant the Department had until [REDACTED], to begin complying with the hearing decision.
 5. In order to reprocess Petitioner's FAP application and redetermine her eligibility, the Department issued two Verification of Employments on [REDACTED], and a Verification Checklist on [REDACTED]. Exhibit A, pp. 2-6.
 6. On [REDACTED], the local office sent by fax the Michigan Administrative Hearing System (MAHS) a DHS-1843, Administrative Hearing Order Certification, certifying compliance with the undersigned's hearing decision. Exhibit A, pp. 4 and 11.
 7. The Department complied with the undersigned's hearing decision because it issued the verification requests on [REDACTED], which was before the [REDACTED], 10-day time limit.
 8. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP application was again denied effective [REDACTED], based on her failure to provide verification of employment. Exhibit A, pp. 12-15.
 9. On [REDACTED], Petitioner filed the present hearing request, disputing the Department's failure to process the undersigned's hearing decision issued on [REDACTED]. Exhibit A, p. 2.

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.

Preliminary matter

On [REDACTED], MAHS sent Petitioner a letter indicating that it appeared her hearing request may be untimely. As such, the undersigned must first consider whether Petitioner's appeal is timely.

In the present case, Petitioner filed a hearing request to protest the Department's failure to process the undersigned's hearing decision issued on [REDACTED], (Reg. No. [REDACTED]). Exhibit A, p. 2, and Exhibit B, pp. 1-6. Based on this information, the undersigned finds that Petitioner's hearing request is timely because she is disputing a failure to process argument, which does not trigger the 90-calendar-day time limit in which a hearing request must be filed from the date of the written notice of case action. See BAM 600 (October 2016), p. 6.

Now, it was discovered the Department again denied Petitioner's FAP application dated [REDACTED], when it sent her another denial notice on June 27, 2016. Exhibit A, pp. 12-15. The undersigned lacks the jurisdiction to address the subsequent FAP application denial because her hearing request, dated [REDACTED], was not timely filed within 90 days of the Notice of Case Action dated [REDACTED]. BAM 600, p. 6.

Accordingly, the only issue that the undersigned can address for this hearing is whether the Department properly implemented and certified the undersigned's hearing decision issued on [REDACTED].

Implementing the Hearing Decision

All hearing decisions must be recorded in the Department's system, on the Hearing Restore Benefits screen. BAM 600 (October 2015 and October 2016), p. 41. Some hearing decisions require implementation by the local office. BAM 600, p. 41. Implement a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 41. **Do not provide a notice of case action. The hearing decision serves as notice of the action.** BAM 600, p. 41. If implementation requires a redetermination, send a notice of case action on the redetermination action. BAM 600, p. 41.

The Department completes the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. BAM 600, pp. 42-43. The Department completes and mails the DHS-1843 to MAHS to certify implementation and place a copy of the form in the case file. BAM 600, pp. 42-43.

In the present case, the Department argues that it complied with the hearing decision because it issued the verification requests on [REDACTED], which was before the [REDACTED], 10-day time limit to begin processing the hearing decision. See Exhibit A, pp. 4 and 11; Exhibit B, pp. 1-6; and BAM 600, pp. 41-43.

In response, Petitioner made the following argument and/or assertions: (i) the Department did not comply with the undersigned's hearing decision; (ii) the two employment verifications sent to Petitioner were improper (Exhibit A, pp. 2-5); (iii) the two employment verifications listed Petitioner as the "employee," but this was incorrect; instead, her spouse was the employee, which the Department did not dispute; (iv) thus, Petitioner argued that the Department did not comply with the hearing decision; (v) the employment verifications listed two different employers, one employment verification stated [REDACTED] and the other stated [REDACTED] but she argued these employers are one and the same; and (vi) she argued that she submitted the verifications.

Based on the totality of the hearing record, the evidence established that the Department complied with the undersigned's hearing decision in accordance with Department policy. See BAM 600, pp. 41-43.

First, the undersigned finds that the Department complied with the hearing decision because it issued the verification requests on [REDACTED], which was before the [REDACTED], 10-day time limit to begin processing the hearing decision. See Exhibit A, pp. 4 and 11; Exhibit B, pp. 1-6; and BAM 600, pp. 41-43.

Second, Petitioner claimed that the employment verifications were improper. Although, the employment verifications should have listed the spouse's name as the employee, rather than the Petitioner, the undersigned's only issue for this hearing is to determine whether the hearing decision was processed timely. The undersigned concluded that it was processed timely. Petitioner's remedy to dispute the improper verifications and subsequent FAP denial could have only been addressed if she filed a timely hearing request. However, the undersigned lacks the jurisdiction to address the subsequent FAP application denial because her hearing request, dated [REDACTED], was not timely filed within 90 days of the Notice of Case Action dated [REDACTED]. BAM 600, p. 6.


Accordingly, the undersigned finds that the Department acted in accordance with when it complied with the Decision and Order issued on [REDACTED], (Reg. No. [REDACTED]). Petitioner can reapply for benefits.

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 (i) the undersigned lacks the jurisdiction to address Petitioner's Notice of Case Action dated [REDACTED], which informed her that her FAP application dated [REDACTED], was again denied; and (ii) the Department acted in accordance with Department policy when it complied with the Decision and Order issued on [REDACTED], (Reg. No. 16-005449).

Accordingly, the Department's FAP decision is **AFFIRMED**.

EJF/jaf



Eric J. Feldman
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



Petitioner

