



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: December 22, 2016
MAHS Docket No.: 16-015482
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 December 14, 2016, from Detroit, Michigan. The Petitioner was present and represented by [REDACTED], Social Worker. The Department of Health and Human Services (Department) was represented by [REDACTED].

ISSUE

Did the Department properly closed Petitioner's FAP benefits effective [REDACTED] for failure to return required documentation?

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 is an ongoing FAP recipient.
2. On [REDACTED], the Department sent Petitioner a Mid-Certification Contact Notice, which was required to be completed and returned on or before [REDACTED].
3. The Department also sent Petitioner a Notice of Case Action on [REDACTED], which notified Petitioner that his FAP benefits would close effective [REDACTED].

4. Petitioner has an AHR; however the Department failed to send the Mid-Certification Contact Notice to Petitioner AHR.
5. On [REDACTED], Petitioner's AHR filed a Request for Hearing disputing the Department's actions.

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.

Under Department policy, a Request for Hearing must be filed within 90 days. In this case, the Notice of Case Action was sent on [REDACTED] and a hearing was not requested until [REDACTED]. However, once the Department has been alerted that the client has an AHR, it is required to send copies of all documentation to the AHR. The Department acknowledged that it failed to send the Mid-Certification to Petitioner's AHR. There was no evidence presented that the AHR timely received the Notice of Case Action. As such, the undersigned finds the Request for Hearing to be timely.

The reason for the closure was the failure by Petitioner to return the Mid-Certification Contact Notice. As previously stated the document was not sent to the AHR as required. The Department acknowledged that because this was not done, the case should not have closed. It is therefore found that the Department improperly closed Petitioner's FAP benefits effective [REDACTED].

DECISION AND ORDER

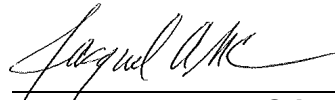
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's FAP benefits effective [REDACTED].

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. Reinstatement of Petitioner's FAP benefits effective [REDACTED]
2. Issue supplements Petitioner was eligible to receive but did not effective [REDACTED] and [REDACTED]
3. Notify Petitioner and his AHR in writing of its decision.

JM/hw



Jacquelyn A. McClinton

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]

Authorized Hearing Rep.

[REDACTED]