



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 6, 2016
MAHS Docket No.: 16-015832
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 November 28, 2016, from Detroit, Michigan. Petitioner did not appear. Petitioner's husband appeared and testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

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 applied for FAP benefits.
2. On [REDACTED] MDHHS mailed Petitioner a Verification Checklist requesting, among other items, verification of Petitioner's income from the past 30 days.
3. Petitioner received employment income in the previous 30 days.
4. As of [REDACTED], Petitioner failed to submit to MDHHS verification of employment income from the previous 30 days.

5. On [REDACTED] MDHHS denied Petitioner's application due to Petitioner's failure to verify income.
6. On [REDACTED], Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of FAP eligibility. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-2) dated [REDACTED], denying Petitioner's application. Petitioner's spouse alleged he did not receive the notice.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notices of case action. BEM 220 (October 2015), p. 2. A notice of case action must specify the following: the action(s) being taken by the department; the reason(s) for the action; the specific manual item which cites the legal base for an action or the regulation or law itself; an explanation of the right to request a hearing; and the conditions under which benefits are continued if a hearing is requested. *Id.*

During the hearing, MDHHS verified the notice was "central" printed (thus, automatically mailed by their database). It was not disputed Petitioner's mailing address was properly listed on the notice. This evidence renders it highly probable that MDHHS properly mailed the application denial notice.

Petitioner's spouse testified he did not receive the application denial notice; he also conceded that it was possible his wife received the notice but did not give it to him. Petitioner's spouse also testified that the United States Post Office sometimes delivers his mail to an address with a similar street name. Even if the notice was not properly delivered by the USPS, there is no apparent harm to Petitioner as there was no evidence that not receiving the notice affected Petitioner's eligibility or hearing rights.

Presented evidence verified MDHHS properly mailed the application denial notice. Evidence was further supportive that Petitioner received the notice of application denial.

Petitioner's spouse also alleged the application denial was improper. The stated reason for denial on the Notice of Case Action was Petitioner's failure to verify employment income.

[For non-child support income, MDHHS is to] use past income to prospect income for the future unless changes are expected. BEM 505 (July 2016), p. 6. [For non-child support income, MDHHS is to] use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.* [MDHHS is to] verify all non-excluded income... at application.... BEM 500 (January 2016), p. 13

[For all programs, MDHHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (July 2016), p. 3. [MDHHS must] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date.... *Id.*, p. 3.

MDHHS presented a Verification Checklist (Exhibit 1, pp. 3-4) dated [REDACTED]. Among the requested items on the VCL was verification of Petitioner's wages, salaries, tip, and commissions. The VCL stated Petitioner was to return one of the following: last 30 days of check stubs, employer statement, Verification of Employment, or Agricultural Income Verification.

MDHHS testimony indicated Petitioner timely responded to the VCL by submitting a letter stating she did not receive employment income in June 2016 or July 2016 and that her employment income stopped. If the content of Petitioner's letter was accurate, then the letter would meet the verification request because Petitioner would not have income from the past 30 days to verify. For unspecified reasons, MDHHS did not accept the letter as verification of a lack of income. Subsequent events justified MDHHS' actions.

Petitioner happened to later apply for FAP benefits. MDHHS presented copies of 3 of Petitioner's checks (Exhibit 1, p. 5) that were submitted to MDHHS as part of the subsequent application's processing. The checks were dated [REDACTED] [REDACTED] [REDACTED]. The check dated [REDACTED], verifies Petitioner received income in the 30 days before the VCL request dated [REDACTED]. Had Petitioner submitted to MDHHS the check dated [REDACTED], before MDHHS denied Petitioner's application, Petitioner's submission would have been timely. MDHHS credibly testified the check dated [REDACTED], was submitted on [REDACTED]. Petitioner's spouse had no knowledge of an earlier submission date for the check.

It is found Petitioner received employment income in the 30 days before MDHHS' request for verification. It is also found Petitioner failed to verify the 30 days of income before her application for FAP benefits dated [REDACTED]. Accordingly, the denial of Petitioner's application for FAP benefits was proper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's FAP application dated [REDACTED]. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki
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]

Petitioner

[REDACTED]