



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: May 16, 2016
MAHS Docket No.: 16-000593
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 May 5, 2016, from Lansing, Michigan. Petitioner appeared by telephone and testified. Petitioner was represented by Attorney [REDACTED] of [REDACTED]. The Department was represented by Assistant Attorney General [REDACTED]. Department witnesses were Program Manager [REDACTED] and Migrant Services Case Worker [REDACTED]. Spanish interpreter services were provided by [REDACTED] of the Department. Department's Exhibit A, pages 1-9 was admitted into evidence.

It is noted that a hearing on this matter was initially scheduled on February 24, 2015. A case conference was conducted by this Administrative Law Judge on that date. It was determined that jurisdiction did exist to conduct a hearing on the matter. The parties agreed that a delay in conducting the hearing was desirable due to communication difficulties with Petitioner and the absence of Migrant Services Case Worker [REDACTED] who is a seasonal employee. The matter was adjourned for a future date.

ISSUE

Did the Department properly deny Petitioner's July 6, 2015, Food Assistance Program (FAP) application on August 4, 2015?

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 July 6, 2015, Petitioner submitted an application for Medical Assistance (MA) and Food Assistance Program (FAP) benefits.
2. On August 4, 2015, Petitioner and Migrant Services Case Worker [REDACTED] spoke by telephone. Following that telephone conversation processing of Petitioner's Food Assistance Program (FAP) application was stopped.
3. On October 2, 2015, Petitioner signed a Client Retainer Agreement with [REDACTED].
4. On October 13, 2015, a Spanish Version Benefit Notice (DHS-176) was issued by the Department regarding Petitioner's July 6, 2015 Food Assistance Program (FAP) application.
5. On January 5, 2016, a hearing request was submitted regarding Petitioner's July 6, 2015, Food Assistance Program (FAP) application.

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 the Department did not complete processing of Petitioner's July 6, 2015 Food Assistance Program (FAP) application based on Migrant Services Case Worker Smith's perception that Petitioner did not want him to continue to process the application. Migrant Services Case Worker [REDACTED] formed that perception during the telephone conversation he had with Petitioner on August 4, 2015. That conversation was in Spanish.

Petitioner testified that she did not tell Migrant Services Case Worker [REDACTED] to stop processing the Food Assistance Program (FAP) application. Petitioner testified that Migrant Services Case Worker [REDACTED] did not understand her during the conversation.

During this hearing Migrant Services Case Worker [REDACTED] testified that he is not sure he completely understood Petitioner's intentions regarding the Food Assistance Program (FAP) application. Both Migrant Services Case Worker [REDACTED] and Program Manager [REDACTED]

██████ testified that the denial of Petitioner's July 6, 2015 Food Assistance Program (FAP) application was NOT a correct action by the Department.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's July 6, 2015, Food Assistance Program (FAP) application on August 4, 2015.


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. Reregister Petitioner's July 6, 2015 Food Assistance Program (FAP) application and process it in accordance with Department policy to include issuing an eligibility determination notice.

GH/nr



Gary Heisler
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]

Counsel for Respondent

[Redacted]

Counsel for Petitioner

[Redacted]

Petitioner

[Redacted]