



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 19, 2016
MAHS Docket No.: 16-001856
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 March 28, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED], Interpreter. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits for failing to return proper verification?

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 was a FAP recipient.
2. In February, 2015, Petitioner submitted an employment verification that had been completed by his employer.
3. His employer had written on the verification that Petitioner was a "self-employed subcontractor" who was nonetheless paid by the employer.
4. Petitioner was not actually self-employed, but was labeled that by his employer for tax purposes.

5. On December 2, 2015, Petitioner submitted a redetermination showing new employment.
6. On December 11, 2015, Petitioner was sent a DHS-3503, Verification Checklist, requesting verification of self-employment.
7. Petitioner did not return this requested verification.
8. On December 22, 2015, Petitioner was sent a notice of case action closing FAP benefits effective January 1, 2016.
9. On February 9, 2016, Petitioner requested a hearing.

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.

The Department may generally close a benefit case for failing to return a requested required verification. BAM 130 (2015). However, the key word is “required”; in order for the Department to close a case, the requested verification has to be required by policy or necessary to determine eligibility.

In the current case, the Department has failed to show that the requested verification was required. The verification checklist requested proof of self-employment income; however, Petitioner was not self-employed.

While it is true that Petitioner’s employer stated that Petitioner was a “self-employed subcontractor”, the undersigned believes that it is common knowledge that such statements are usually meant to simply mean that the employer is not paying the employee’s payroll taxes. Petitioner confirmed this interpretation at hearing.

Furthermore, regardless of whether the Department caseworker was aware of the meaning, the fact is, the first verification came from an actual employer, meaning that Petitioner’s self-employed status was in doubt. At the very least, some clarification was

required. Additionally, the Department had never once requested self-employment verifications before the December, 2016, something that would have been required had it actually believed Petitioner was self-employed.

Therefore, as Petitioner was not actually self-employed, and as the Department's belief that Petitioner was self-employed was tenuous at best, and in defiance of common knowledge at worst, the undersigned holds that verifications of self-employment were not required as contemplated by BEM 130. If the verifications were not required, then the Petitioner could not have been placed into case closure for failing to return the verifications.

As such, the Department's case closure was in error, and should be reversed.

As a side note, the undersigned notes that at no point does this decision say that verification of the Petitioner's income was unnecessary, only that the verifications the Department requested were not required. Other verifications, such as current employment income or job loss may still be required by policy with respect to this Petitioner.

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 case for failing to return verification.

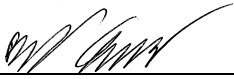
DECISION AND ORDER

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. Reopen Petitioner's FAP case retroactive to the date of case closure, January 1, 2016.

RC/tm



Robert J. Chavez
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]

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