



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR



Date Mailed: April 13, 2016
MAHS Docket No.: 16-002511
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 April 12, 2016 from Lansing, Michigan. The Petitioner appeared and testified. The Department of Health and Human Services (Department) was represented by Hearing Facilitator,



The following exhibits were offered and admitted into evidence:

Department: A--January 15, 2016, Assistance Application.
B--January 15, 2016, Verification Checklist.
C--January 27, 2016, asset verification.
D--February 12, 2016, Notice of Case Action.

Petitioner: none.

ISSUE

Did the Department properly take action to close the Petitioner's Food Assistance Program (FAP) case, due to her failure to submit the required 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. On January 15, 2016, the Petitioner submitted an Assistance Application for FAP.

2. On January 15, 2016 the Department sent the Petitioner a Verification Checklist requesting verification of “current statement from bank or financial institution.”
3. On February 12, 2016, the Department sent the Petitioner a Notice of Case Action denying the Petitioner’s application for FAP for failure to return verification of a checking account through [REDACTED] Bank.
4. On or around the end of 2014, the Petitioner’s account at [REDACTED] Bank closed.
5. On February 12, 2016, the Department received the Petitioner’s verbal request for hearing protesting the denial of her application for FAP.

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 uncontested facts in this case are that the Petitioner’s account at [REDACTED] Bank is not a current account. The Caseworker did not ask the Petitioner about closed accounts at the time of the FAP interview and the Verification Checklist did not ask about old or closed accounts either. The Petitioner testified that she thought she had, previous to the instant Assistance Application, informed her Caseworker that the [REDACTED] Bank account closed, but her Caseworker has no recollection of that.

Additionally, Bridges Assistance Manual (BAM) 130 (2016) p. 3 provides that the Department worker tell the Petitioner what verification is required, how to obtain it and the due date by using either a DHS-3503 Verification Checklist. In this case, the Department did not specifically ask for verification of closed accounts. Indeed, the Department asked for a current statement from bank or financial institution and the evidence indicates that the Petitioner did submit a current statement from a bank or financial institution. The Petitioner would have no way of knowing that she was supposed to verify an account that had been closed 18 months prior.

Bridges Assistance Manual (BAM) 130 (2014) p. 7 provides that verifications are considered to be timely if received by the date they are due. It instructs Department workers to send a negative action notice when the Petitioner indicates a refusal to provide a verification, or when the time period given has elapsed and the Petitioner has

not made a reasonable effort to provide it. In this case, the Administrative Law Judge determines that the time period to submit the verification had lapsed and the Petitioner had made no reasonable effort to provide the verification; however, the Petitioner also had no way of knowing that she was supposed to provide the verification of the closed account.

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 took action to deny the Petitioner's application for FAP.

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. Redetermine the Petitioner's eligibility for FAP back to January 15, 2016, and
2. issued the Petitioner any supplement she may thereafter be due, and
3. issue the Petitioner a new Notice of Case Action informing her of the new eligibility determination, and
4. the Petitioner retains the right to request a hearing on the new eligibility determination.



SH/nr

Susanne E. Harris
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]