



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 2, 2016
MAHS Docket No.: 16-003366
Agency No.:



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 April 20, 2016, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Eligibility Specialist and Maria Walters of the Office of the Inspector General.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application for excess income?

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 applied for FAP benefits on February 18, 2016.
2. Petitioner alleged a group size of two on the application.
3. The Department calculated benefits using a group size of three, and taking into account earned income of a person not listed as a group member on Petitioner's benefit application.
4. The difference in group size and income was based upon a FEE investigation conducted over a month before Petitioner's application for benefits.

5. The Department denied the application on March 4, 2016.
6. On March 14, 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.

In this case, the Department alleged that Petitioner had inaccurately reported group size, and correctly included income from a person alleged to be a mandatory group member.

The undersigned disagrees.

The FEE investigation referenced by the Department was conducted on January 6, 2016, more than a month prior to Petitioner's application for benefits. It was not a current investigation, and thus had no immediate relevancy to the Petitioner's current application.

While the FEE investigation shows that the person in question was a mandatory member of the group as of January 6, 2016, it does not show that the person in question was a mandatory group member as of February 18, 2016, and the Department was incorrect when they extrapolated the investigation results to the current date.

Many things could have occurred in the intervening month, including, as the Petitioner alleges, the removal of the person in question from the home.

This does not mean that the FEE investigation is worthless; the undersigned believes that it raises questions as to whether the person in question was actually in the home, but it does not provide definitive answers.

Per BAM 130, the Department is to obtain verification when a factor affecting eligibility is unclear or inconsistent. At the very least, this factor meets that definition, and

verification should have been sought. Under no circumstances was the correct action the denial of Petitioner's application using information that is more than a month out of date.

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 denied Petitioner's February 18, 2016 FAP application.

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. Reprocess Petitioner's February 18, 2016 FAP application retroactive to the date of application.

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

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