



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 20, 2016
MAHS Docket No.: 16-003470
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED] [REDACTED] Hearing Facilitator.

ISSUE

1. Did the Department properly close the Petitioner's Food Assistance Program (FAP) for failure to verify income?
2. Did the Department properly deny the Petitioner's Child Development and Care (CDC) due to noncooperation with the Office of Child Support (OCS)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing recipient of FAP.
2. The Petitioner applied for CDC benefits on December 2, 2015.
3. In response to a Verification Checklist (VCL) issued by the Department on January 20, 2016, the Petitioner timely provided pay stubs to the Department. The pay stubs were issued for the pay period November 12, 2015, through

December 4, 2015; and December 19 through January 1, 2016. The Petitioner is paid bi weekly. The Department rejected the pay stubs because no federal or state withholding taxes were paid.

4. The pay stubs were provided to the Department in a timely manner.
5. The Department closed the Petitioner's FAP benefits as of April 1, 2016, for failure to verify information.
6. The Department denied the Petitioner's CDC application by notice dated January 20, 2016, due to noncooperation with the OCS as of February 29, 2016.
7. The OCS placed the Petitioner in noncooperation as of February 29, 2016, even though it had the name of the noncustodial parent and other pertinent information available to it to seek support from that individual.
8. The OCS advised at the hearing that the Petitioner should not have been placed in noncooperation as of February 29, 2016, and that she should have been in cooperation ongoing from February 11, 2015.
9. The Petitioner requested a timely hearing on March 9, 2016, protesting the Department's actions

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 Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, the Department closed the Petitioner's FAP case for failure to verify income. The Petitioner's hearing summary did not provide any information with respect to chronological order of events, the date of the VCL, a notice of case action closing the case, the FAP closure date and the reasons for closure, all of this was covered verbally during the hearing without any written documentation attached to the hearing summary, and also caused delay.

The Petitioner timely verified her income; however, the Department caseworker rejected the pay stubs provided due to the fact that no withholding taxes were taken from the checks. No evidence of efforts to make collateral contact by the Department with the Petitioner's employer were presented. In addition, apparently the Petitioner's employer emailed the Department with the pay stubs and other information, which email apparently was not responded to by the Department. The Petitioner's employer is an accounting service, and the pay stubs provided to the Department included the employer's address. The evidence presented showed that the pay stubs were issued; the Petitioner is paid bi weekly; and the pay stubs did not deduct withholding for either Michigan or Federal income taxes. The Petitioner testified that she has four (4) children; and based on her income, she does not have these taxes withheld. Clearly, based on the pay stubs and the year-to-date earnings information as of December 2015, the Petitioner's income is only \$ [REDACTED] annually for five (5) people; and thus, it would make sense that no taxes were withheld as this was the Petitioner's only income for a group of five (5) people. Therefore, there was no basis presented for the Department to have rejected the pay stub checks presented. Thus, based on the evidence presented, the Department improperly closed the Petitioner's FAP for failure to verify her income; and the case must be reinstated as of the date of closure.

The Department also denied the Petitioner's CDC application, which she completed on December 2, 2015. The Hearing Summary prepared by the Department does not address the CDC issue and why the application was denied, but rather suggests that the reason for the denial was the check stubs. During the hearing, the Department disclosed that the CDC application was denied due to the Petitioner's alleged noncooperation with the OCS. No documentation of the noncooperation status of the case was provided by the Department or even mentioned in the Hearing Summary. Notwithstanding the lack of information, the OCS was contacted and participated in the hearing. During the hearing, the OCS concluded that the OCS had improperly placed the Petitioner in noncooperation and testified under oath that the Petitioner should be found in cooperation effective February 11, 2015. Thus, based on this testimony, the Department improperly denied the Petitioner's CDC application; and it must reregister and process the application.

In addition, it must be noted that the Department failed to comply with the requirements for presenting a hearing found in BAM 600. BAM 600 requires the following be provided by the Department:

All Programs

Complete a DHS-3050, Hearing Summary, prior to the meaningful prehearing conference. In the event additional space is required to complete the DHS-3050, Hearing Summary, attach a Word document to the DHS-3050 and number the Word document accordingly. All case identifiers and notations on case status must be complete.

The hearing summary must include all of the following:

- A clear statement of the case action, in chronological order, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the client and the AHR.
- Description of the documents the local office intends to offer as exhibits at the hearing.

Number the document copies consecutively in the lower right corner; begin numbering with the hearing summary.

Exception #4: For hearing requests disputing OCS/PA actions:

Attach a supplemental hearing summary completed by OCS/PA detailing actions taken and all evidence provided by the OCS/PA.

In addition, BAM 600 requires:

The second-line manager or designee must review all hearing requests which are **not** resolved by the first-line supervisor. The purpose of the review is to assure that local office staff has done the following:

- Applied DHS policies and procedures correctly.
- Explained DHS policies and procedures to the client and AHR.
- Explored alternatives.
- Offered appropriate referrals to the client.
- Considered requesting a central office policy clarification or policy exception, if appropriate.

By signing box 4 on the DHS-3050, Hearing Summary, the second-line manager must certify:

- The date the DHS-1560, Notice of Prehearing Conference, was sent to the client and AHR, if any.
- The reason the hearing request could not be resolved.
- That eligibility was properly determined for this case.

That the hearing request cannot be resolved, except through a formal hearing and the reason(s) why.

BAM 600, (October 1, 2015), pp. 20-21.

The undersigned was almost 35 minutes into the hearing when it was discovered that the CDC application was denied not based upon failure to verify income, but based upon noncooperation with the OCS. The OCS had no knowledge that the hearing was scheduled as the Department took no actions to do so.

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 the Petitioner's FAP case for failure to verify income and failed to act in accordance with Department policy when it denied the Petitioner's CDC application due to noncooperation with OCS.

DECISION AND ORDER

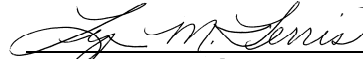
Accordingly, the Department's decision is **REVERSED**.

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. The Department shall reinstate the Petitioner's FAP case retroactive to the date of closure and shall use the pay stubs provided.
2. The Department shall issue an FAP supplement, if any, that the Petitioner is otherwise entitled to receive.
3. The Petitioner shall be deemed by the Department to be in cooperation with the OCS as of February 11, 2015.

4. The Department shall reregister and process the Petitioner's CDC application dated December 2, 2015, and determine her eligibility.

LMF/jaf



Lynn M. Ferris
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]

cc:

[REDACTED]