



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: April 29, 2016
MAHS Docket No.: 16-004156
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 April 27, 2016, from Lansing, Michigan. Petitioner was represented by herself and her daughter [REDACTED]. The Department was represented by Eligibility Specialist [REDACTED]. Testimony was received from all participants. Department's Exhibit A, pages 1 - 20 was admitted into evidence.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility on January 27, 2016?

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 an ongoing recipient of Food Assistance Program (FAP) benefits.
2. On January 27, 2016, Petitioner was sent a Notice of Case Action (DHS-1605) which stated her Food Assistance Program (FAP) would close on March 1, 2016 for failure to submit bank account verifications.
3. On March 21, 2016, Petitioner submitted a new Food Assistance Program (FAP) application. The Department determined the closure of Petitioner's Food Assistance Program (FAP) was an incorrect action and submitted a ticket to reinstate Petitioner's Food Assistance Program (FAP).

4. On March 25, 2016, Petitioner submitted a hearing request.

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.

Jurisdiction in an Administrative Law Hearing on DHHS eligibility determinations is derived from Bridges Administration Manual (BAM) 600 Hearings. The jurisdiction in this hearing is limited to the January 21, 2016 Food Assistance Program (FAP) eligibility determination. The Department's position is that the closure determination was incorrect. The evidence in this record addresses events that occurred AFTER the hearing request was submitted. Those facts are irrelevant to determining if the January 27, 2016 Food Assistance Program (FAP) eligibility determination was correct.

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 determined Petitioner's Food Assistance Program (FAP) eligibility on January 27, 2016.

DECISION AND ORDER

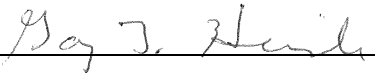
Accordingly, the Department's decision is **REVERSED**.

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. Reinstate Petitioner's Food Assistance Program (FAP).
2. Determine Petitioner's Food Assistance Program (FAP) eligibility from March 1, 2016 ongoing in accordance with Department policies.

3. Issue Petitioner a current Notice of Case Action (DHS-1605) once her Food Assistance Program (FAP) from March 1, 2016 is determined.

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





Petitioner

[REDACTED]

[REDACTED]

[REDACTED]