



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: June 9, 2016
MAHS Docket No.: 16-005719
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 June 1, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's FAP benefits effective December 14, 2015?

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 is an ongoing FAP recipient.
2. On [REDACTED], the Department sent Petitioner a Notice of Potential Food Assistance (FAP) Closure which notified Petitioner that her FAP case would close effective [REDACTED] for failure to return the Semi-Annual Contact or other required documents.
3. Petitioner contacted the Department in December 2015 and was told that her case was pending.

4. The Department received and processed Petitioner's Semi-Annual Contact form.
5. The Department determined that Petitioner was ineligible for FAP benefits due to excess income and closed Petitioner's FAP benefits effective [REDACTED].
6. The Department did not sent Petitioner a Notice of Case Action informing her that her FAP case would close effective [REDACTED].
7. On [REDACTED], Petitioner filed a Request for Hearing disputing 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.

On [REDACTED], the Department sent Petitioner a Notice of Potential Food Assistance (FAP) Closure. The Notice informed Petitioner that her FAP case would close effective [REDACTED] for failure to return the Semi-Annual Contact or required documents. The Department alleged that because Petitioner did not file a Request for Hearing within 90 days, the Request for Hearing should be dismissed.

Petitioner acknowledged receipt of the Notice of Potential Closure and testified that she immediately began contacting her assigned worker. The Case Comments confirmed that Petitioner contacted her assigned worker and that she was informed that her case was pending. The Case Comments further revealed that the Semi-Annual contact was received and processed. After processing, the Department determined that Petitioner exceeded the gross income limit and was therefore not eligible for assistance. However, the Department confirmed that a Notice of Case Action was never sent informing Petitioner that her case would close effective [REDACTED]. As such, it is found that the undersigned has jurisdiction relating to the closure as Petitioner did not receive proper notice of the closure.

Additionally, a negative action, as defined by the Department, is a MDHHS action to deny an application or to reduce, suspend or terminate a benefit. This includes an increase in a post-eligibility patient-pay amount for MA or an increase in the client pay

for a special living arrangement See BAM 220 pg. 1 (October 2015). A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested. See BAM 220 pg. 2 (October 2015).

Petitioner testified that in December 2015, she received additional hours as a result of the holiday. Petitioner testified that she quit her work in January 2016 and found other part time employment. The Department confirmed that it received updated employment information in January 2016. As such, it appears that Petitioner may have only exceeded the income limit in December 2015 as a result of fluctuating income.

Department policy requires that a notice must be generated manually in those situations in which Bridges is not able to generate a notice... BAM 220 pg. 19 (October 2015). The Department failed to manually generate a Notice of Case Action, and in doing so also failed to properly notify Petitioner of the reduction in benefits.

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 effective June 2015 without proper notice.

DECISION AND ORDER

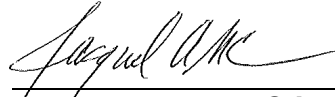
Accordingly, the Department's decision is **REVERSED**.

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 Claimant's FAP benefits effective December 2015 to the amount she was receiving prior to the closure;
2. Redetermine Petitioner's eligibility for FAP benefits effective [REDACTED];

3. Issue supplements to Petitioner for FAP benefits she was eligible to receive but did not receive from December 2015, ongoing; and
4. Notify Claimant in writing.

JM/hw



Jacquelyn A. McClinton
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]

Petitioner

[REDACTED]