



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 20, 2016
MAHS Docket No.: 16-006200
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on June 15, 2016, from Sterling Heights, Michigan. [REDACTED] Petitioner's wife, appeared. She and Petitioner were represented by [REDACTED], authorized hearing representative (AHR). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) case?

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 FAP benefits whose current certification period expired February 29, 2016.
2. On January 11, 2016, the Department sent Petitioner a redetermination requesting that the completed form be returned to the Department by February 4, 2016 (Exhibit B).
3. On February 4, 2016, the Department sent Petitioner a Notice of Missed Interview notifying him that he had missed his February 4, 2016 interview and it was now his

responsibility to reschedule the interview before February 29, 2016 to avoid closure of his case (Exhibit C).

4. On February 10, 2016, Petitioner submitted a completed redetermination to the Department (Exhibit D).
5. On March 18, 2016, the Department uploaded Petitioner's completed redetermination to his electronic data file.
6. On April 7, 2016, Petitioner's case worker became aware that the redetermination was timely submitted before expiration of Petitioner's certification period and interviewed Petitioner's representative.
7. An error message on the Department's system prevented the worker from processing the redetermination and generating a verification checklist for additional required proofs (Exhibit F).
8. On April 28, 2016, Petitioner filed a request for hearing disputing the Department's actions (Exhibit A).

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.

Redeterminations must be completed at least every 12 months in order for the Department to determine the client's continued eligibility for benefits. BAM 210 (January 2016), p. 1. FAP benefits stop at the end of a benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2. If a FAP redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the client's FAP case. BAM 210, p. 11.

In this case, the Department acknowledges that it received Petitioner's redetermination on February 10, 2016, after the February 4, 2016 due date but before February 29,

2016, the last working day of the redetermination month. Therefore, the Department was required to process the redetermination.

The Department explained that, for reasons that were not clear, Petitioner's redetermination was not scanned and uploaded into his electronic case file until March 18, 2016, and his worker was not aware of the redetermination until April 7, 2016. On that date, an interview was conducted. The Department determined that additional verifications were required. However, it was unable to generate a VCL until April 29, 2016, after an error message that prevented the continued processing of Petitioner's case was resolved. The VCL was sent to Petitioner on April 29, 2016, requesting, among other things, verification of cash donations from family members or of the termination of such donations by May 9, 2016. At the hearing, the Department testified that no verifications were received. On May 16, 2016, it certified the closure of Petitioner's FAP case but because the new certification period was not approved, the FAP closure was effective February 29, 2016, the date Petitioner's FAP certification period expired.

At the hearing, the Department acknowledged that no notice of case action was sent to Petitioner advising him of the closure of his case. Upon certification of eligibility results, the Department is required to send the client a notice of case action advising him of the Department's actions, the reasons 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, and the conditions under which benefits are continued if a hearing is requested. BAM 220 (April 2016), pp. 2, 5. The Department is required to send a notice of case action when a redetermination is filed and when verifications requested in connection with a redetermination were not timely received. BAM 130 (January 2016), p. 9; BAM 220, p. 5. By failing to notify Petitioner in writing of its decision, the Department did not act in accordance with Department policy.

At the hearing, there was some discussion about the information requested in the VCL and whether the AHR was also Petitioner's authorized representative and entitled to a copy of the VCL sent on April, 29, 2016. Because the VCL was sent on April 29, 2016, after the request for hearing was filed on April 28, 2016, and the Department had not sent a notice of case action denying eligibility for continued FAP benefits at the time the request for hearing was filed, the issues regarding the VCL and the case closure were not properly presented at the hearing. The AHR is advised that she may request a hearing to dispute any new Department actions taken after April 28, 2016, including a closure of Petitioner's FAP case.

The AHR also expressed concerns about the Department's considerable delay in processing Petitioner's FAP redetermination. The AHR is advised that she may file a complaint with any of the following:

- The appropriate MDHHS local office or Self-Service Processing Center. See the MDHHS directory at http://www.michigan.gov/dhs/0,4562,7-124-5459_5461---,00.html for office locations.
- The Specialized Action Center at. 235 S. Grand Avenue P.O. Box 30037 Lansing, MI 48909 or call (855) 275-6424 or (855) ASK-MICH.
- The Food and Nutrition Service (FNS) regional office at U.S. Department of Agriculture FNS Midwest Regional Office 77 W. Jackson Blvd., 20th Floor Chicago, Illinois 60604-3507

BAM 105 (April 2016), p. 8.

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 processed Petitioner's FAP redetermination.

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. Complete processing Petitioner's FAP redetermination;
2. Supplement Petitioner for any FAP benefits he was eligible to receive but did not from March 1, 2016 ongoing; and
3. Notify Petitioner in writing of its decision.

ACE/tlf



Alice C. Elkin
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

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