



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: June 10, 2016
MAHS Docket No.: 16-006236
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 8, 2016, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist and back-up Hearing Facilitator.

During the hearing proceedings, the Department's Hearing Summary packet was admitted as marked, Exhibits A-F.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case based on an alleged failure to provide verification of a savings bank account?

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 a recipient of FAP benefits.
2. On January 11, 2016, a Redetermination form was issued to Petitioner to be completed and returned by the February 1, 2016, due date. A telephone interview was also scheduled for February 1, 2016. (Exhibit A, pp. 1-6)

3. On January 27, 2016, Petitioner returned the completed Redetermination form and provided copies of pay check stubs. (Exhibit A, pp. 1-8)
4. On January 29, 2016, the telephone interview was completed. (Exhibit F, p. 1)
5. Subsequent to the January 29, 2016, telephone interview, the Department did not actually issue the intended Verification Checklist to request verification of Petitioner's savings bank account. (Exhibit F, p. 1; Hearing Summary; Eligibility Specialist Testimony)
6. On April 28, 2016, a Notice of Case Action was issued to Petitioner stating his FAP case would close effective May 1, 2016, based on an alleged failure to provide verification of a savings bank account. (Exhibit B. pp. 1-2)
7. On May 2, 2016, the Petitioner provided verification of his savings bank account. (Exhibit C, p. 1)
8. On May 2, 2016, Petitioner called the Department and requested an administrative hearing contesting the FAP closure.

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.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, January 1, 2016, pp. 1-7.

On April 28, 2016, a Notice of Case Action was issued to Petitioner stating his FAP case would close effective May 1, 2016, based on an alleged failure to provide

verification of a savings bank account. (Exhibit B. pp. 1-2) However, the Department acknowledged that this was not a proper action because the Department did not actually issue the intended Verification Checklist to request verification of Petitioner's savings bank account. (Exhibit F, p. 1; Hearing Summary; Eligibility Specialist Testimony) Accordingly, the Department had not told Petitioner what verification was required, how to obtain it, and the due date in accordance with the BAM 130 policy.

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 Food Assistance Program (FAP) case based on an alleged failure to provide verification of a savings bank account.

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. Re-determine Petitioner's eligibility for FAP retroactive to the May 1, 2016, effective date in accordance with Department policy.

CL/mc



Colleen Lack
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]