



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: September 2, 2016
MAHS Docket No.: 16-009732
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 August 29, 2016, from Detroit, Michigan. The Petitioner was represented by her Attorney/Authorized Hearing Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. On May 25, 2016, Petitioner submitted an application for FAP benefits. On the FAP application submitted, Petitioner reported that eight people live in the household. (Exhibit A)
2. On the FAP application submitted, Petitioner indicated she was requesting FAP benefits for only four of her children, all of whom are U.S. Citizens. The remaining four household members were not requesting FAP benefits. (Exhibit A)

3. On June 21, 2016, the Department sent Petitioner a Verification Checklist (VCL) instructing her to provide additional information about: Alien Status Undeclared by July 1, 2016. (Exhibit B)
4. The June 21, 2016, VCL does not inform Petitioner of exactly what verifications are being requested, for whom, and what would be acceptable verifications to comply with the VCL. (Exhibit B)
5. On June 21, 2016, the Department sent Petitioner a Quick Note informing her that in order for the Department to complete the processing of her FAP application, Petitioner would be required to submit proof of U.S. citizenship for her ■ year old son. (Exhibit 1)
6. It was established that Petitioner's ■ year old son was not requesting FAP benefits. (Exhibit A)
7. Prior to the due date indicated on the VCL, on June 23, 2016, the Department sent Petitioner a Notice of Case Action (Notice) advising that the May 25, 2016, FAP application was denied on the basis that she failed to verify or allow the Department to verify information necessary to determine eligibility for FAP benefits. The Notice lists all eight household members as being denied FAP benefits. (Exhibit C)
8. On July 5, 2016, Petitioner requested a hearing disputing the Department's actions with respect to the denial of the FAP application.

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.

Additionally, to receive FAP benefits, a person must be a U.S. citizen or have an acceptable alien status. Individuals who do not meet this requirement, or who refuse to indicate their status, are disqualified from FAP eligibility. BEM 225 (October 2015), p 1; BEM 212 (October 2015), p.8. Non-disqualified members or those living with a person disqualified by this requirement may still qualify for program benefits. BEM 225, pp.1-2.

The Department will determine the alien status of each non-citizen requesting benefits at application, member addition, redetermination and when a change is reported. If a group member is identified on the application as a U.S. citizen, the Department is not to require verification of citizenship unless the statement about citizenship is inconsistent, in conflict with known facts or is questionable. BEM 225, p. 1.

In this case, a review of the FAP application submitted by Petitioner established that FAP benefits were only being requested for four of Petitioner's children, all of whom were identified on the FAP application as being U.S. citizens. (Exhibit A). The remaining four household members were not requesting FAP benefits and did not assert an acceptable alien status or U.S. citizenship, thus, it was unclear why the Department sent Petitioner a Quick Note instructing her to submit proof of her ■ year old son's U.S. citizenship. At the hearing, it was confirmed by Petitioner's AHR that the disqualification of the four members not requesting FAP benefits was not in dispute and that at issue, was the denial of FAP benefits for Petitioner's four U.S. citizen children. At the hearing, the Department acknowledged that the denial of the application was improper, as the four household members should have been disqualified and the four U.S. citizen children eligible to receive FAP benefits.

Additionally, the June 21, 2016, VCL was reviewed during the hearing and it was established that the information contained in the VCL was unclear, as Petitioner was not notified exactly which verifications she was instructed to submit, for which group members, and what documentation would be acceptable. Furthermore, the Department issued a Notice of Case Action dated June 23, 2016, denying Petitioner's application on the basis that she failed to verify information necessary, however, the due date listed on the VCL was July 1, 2016. Thus, the time period provided to Petitioner to submit the requested verifications had not yet elapsed when the Notice of Case Action denying the application was issued. See BAM 130 (January 2016), pp. 1-9. The Department conceded that there were errors in the processing of the FAP application.

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 denied Petitioner's FAP application.

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. Register and process Petitioner's May 25, 2016, FAP application;
2. Issue FAP supplements to Petitioner's four eligible U.S. citizen children from the May 25, 2016, application date, ongoing, in accordance with Department policy; and
3. Notify Petitioner and her AHR in writing of its decision.



ZB/tlf

Zainab A. Baydoun
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

Counsel for Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Via Electronic Mail:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]