



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: October 14, 2016
MAHS Docket No.: 16-013189
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 three-way telephone hearing was held on [REDACTED] [REDACTED] from Detroit, Michigan. The Petitioner was represented by her Authorized Hearing Representative (AHR), [REDACTED], from [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager; and [REDACTED], Assistant Payment Worker.

ISSUES

1. Did the Department properly deny Petitioner's Food Assistance Program (FAP) application dated [REDACTED]?
2. Did the Department fail to process Petitioner's FAP application dated [REDACTED] [REDACTED]?

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 [REDACTED], the Authorized Representative (AR) applied for FAP benefits on behalf of the Petitioner.
2. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP application was denied effective [REDACTED], because the individual is not eligible based on institutional status. Exhibit A, pp. 6-7.

3. On [REDACTED], the AR applied for FAP benefits on behalf of the Petitioner. Exhibit B, pp. 1-20.
4. The Department received the subsequent application; however, it failed to register and process the application.
5. On [REDACTED], Petitioner's AHR filed a hearing request, protesting the Department's action. Exhibit A, pp. 3-4.

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.

Preliminary matters

First, the AHR requested the hearing to dispute the denial of the FAP application dated [REDACTED]. However, the undersigned lacks the jurisdiction to address the FAP application dated [REDACTED]. Policy states that the client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (October 2015), p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6. In this case, Petitioner's hearing request dated [REDACTED], was not timely filed within 90 days of the Notice of Case Action dated [REDACTED]. Exhibit A, pp. 3-4 and 6. As such, Petitioner's hearing request regarding the Notice of Case Action dated [REDACTED], is DISMISSED for lack of jurisdiction. BAM 600, pp. 1-6.

Second, the AHR also disputed the second application filed on [REDACTED]. The AHR argued that the Department failed to process the subsequent application. The undersigned has the jurisdiction to address the AHR's second complaint, which is whether the Department failed to process Petitioner's FAP application dated [REDACTED]. BAM 600, pp. 1-6.

Failure to process

In the present case, it was discovered that Petitioner submitted a subsequent FAP application on [REDACTED]. Exhibit B, pp. 1-20. In fact, the Department acknowledged receipt of the second application, but it was never processed.

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (April 2016), p. 18. Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110 (January 2016), p. 5. The Department must register a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 20.

The standard of promptness (SOP) begins the date the Department receives an application/filing form, with minimum required information. BAM 115 (January 2016), p. 14. Exception for FAP, the SOP begins when the correct local office receives it. BAM 115, p. 14. For FAP cases, the expedited due date (SOP) is six calendar days after the application date. BAM 115, p. 16. The regular FAP due date (SOP) is 29 calendar days after the application date. BAM 115, p. 16. FAP benefits must be available by the 7th day for expedited and the 30th day for regular FAP. BAM 115, p. 16. Available means clients must have a Bridge card and access to their benefits by the 7th day for expedited and the 30th day for regular FAP benefits. BAM 115, p. 16.

Moreover, if the group is ineligible or refuses to cooperate in the application process, the Department must certify the denial within the standard of promptness and also send a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, pp. 22-23. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 23.

Based on the foregoing information and evidence, the Department failed to process Petitioner's FAP application dated [REDACTED], in accordance with Department policy. There was no dispute that the Department received the subsequent application and failed to register and process the application in accordance with Department policy. Exhibit B, pp. 1-20. As such, the Department will register and initiate processing of Petitioner's FAP application dated [REDACTED], in accordance with Department policy. BAM 105, p. 18; BAM 110, pp. 5 and 18; and BAM 115, pp. 14-16 and 22-23.

DECISION AND ORDER

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 failed to process Petitioner's FAP application dated [REDACTED].

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 initiate processing of Petitioner's FAP application dated [REDACTED];
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not receive in accordance with Department policy; and
3. Notify Petitioner of its decision.

IT IS ALSO ORDERED that Petitioner's hearing request regarding the Notice of Case Action dated [REDACTED], is **DISMISSED** for lack of jurisdiction.

EJF/jaf



Eric J. Feldman
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]

Authorized Hearing Rep.

[REDACTED]

Via email

[REDACTED]