



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 31, 2016
MAHS Docket No.: 16-014148
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 telephone hearing was held on October 27, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective September 1, 2016?

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.
2. On June 30, 2016, the Department indicated that Petitioner submitted incomplete Verification of Employments (DHS-38) for loss of employment for [REDACTED] and new employment for [REDACTED] because the second pages of the verifications were missing. Exhibit A, pp. 4-5 and 17.
3. On July 6, 2016, the Department sent Petitioner a New Hire Client Notice (new hire) for "[REDACTED]" and it was due back by July 18, 2016. Exhibit A, pp. 6-7.

4. On July 6, 2016, the Department also sent Petitioner a Verification Checklist (VCL) requesting verification of 30-day's worth of income as well as loss of employment, due to the incomplete Verification of Employments submitted on June 30, 2016. Exhibit A, pp 10-11. The verifications were due back by July 18, 2016. Exhibit A, p. 10.
5. The Department indicated that it did not receive the Verification of Employments nor the new hire by the due date of July 18, 2016.
6. On July 28, 2016, Petitioner submitted a Redetermination (DHS-1010) in which she indicated that she was employed with [REDACTED] Exhibit A, pp. 12-16.
7. On August 2, 2016, the Department conducted a redetermination telephone interview with Petitioner and she was informed the income verification submitted on June 30, 2016, was insufficient. Exhibit A, pp. 1 and 17.
8. On August 2, 2016, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would close effective September 1, 2016, due to her failure to return proof of income and loss of employment. Exhibit A, pp. 19-22.
9. On August 15, 2016, the Department reinstated Petitioner's case due to her submitted verification of income on August 12, 2016, from [REDACTED]" and her loss of employment from "[REDACTED]." Exhibit A, pp. 24-27.
10. However, the Department again closed Petitioner's case due to her failure to return the new hire. Exhibit A, p. 1.
11. Before closing the case, the caseworker compared the New Hire report against the Verification of Employment submitted for the new employment and the company name and the address were not the same; thus, the case was certified close due to the conflicting information. See Exhibit A, pp. 26-28 ("[REDACTED]
[REDACTED]")
12. On August 15, 2016, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would close effective September 1, 2016, ongoing, due to her failure to comply with the verification requirements and her failure to return the new hire. Exhibit A, pp. 29-30.
13. On September 26, 2016, Petitioner filed a hearing request, protesting the case closure. Exhibit A, pp. 2-3.

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.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (July 2016), p. 7. The Department sends a negative 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, p. 7.

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 9.

Additionally, the Michigan Department of Health and Human Services (MDHHS) routinely matches recipient data with other agencies through automated computer data exchanges. BAM 807 (July 2016), p. 1. The State New Hires Match is a daily data exchange of information collected by the Michigan New Hire Operations Center and obtained through the Office of Child Support. BAM 807, p. 1. State New Hires information is used to determine current income sources for active MDHHS clients. BAM 807, p. 1.

The Department contacts the client immediately if the employment has not been previously reported. BAM 807, p. 1. The Department requests verification by generating a DHS-4635, New Hire Notice. BAM 807, p. 1. When a DHS-4635 is requested, the Department automatically gives the client 10 calendar days to provide verification from the date the forms were requested. BAM 807, p. 1.

When income verification is returned, make the appropriate changes in the system (Bridges), then run eligibility determination benefit calculation (EDBC) to reduce or close the benefits. BAM 807, p. 2.

If verifications are not returned by the tenth day, case action will need to be initiated to close the case in its system. BAM 807, p. 2. If the client reapplies, the date the client

reapplies determines if State New Hires verification must be returned before processing the new application. BAM 807, p. 2.

As shown in the *Findings of Fact* section, there was a lengthy history regarding the verifications requested for Petitioner's loss of employment and new employment. But ultimately, the Department received verification of Petitioner's loss of employment and it was no longer an issue for this case. Instead, the issue for this case revolved around verification of Petitioner's new employment. The Department concluded that Petitioner's case closed again due to her failure to return the new hire. Exhibit A, p. 1. Moreover, the caseworker compared the New Hire report against the Verification of Employment submitted for the new employment and the company name and the address were not the same; thus, the case was certified close due to the conflicting information. See Exhibit A, pp. 26-28 ("Fantastic Sam vs. SMS World LLC.")

In response, Petitioner makes the following arguments and/or assertions: (i) why did her caseworker not contact her asking that they needed the verifications; (ii) she indicated that whichever document the Department sent her to complete, including the new hire, she would have completed the form and submit it timely to the Department; (iii) "██████████ ██████████ and ██████████ ██████████" are the same employer; (iv) during the redetermination interview, the caseworker never inquired as to the discrepancy in the names; and (v) after the redetermination interview, she never received any contact from the caseworker inquiring as to the discrepancy to the employer names/addresses.

Based on the foregoing information and evidence, the undersigned finds that the Department improperly closed Petitioner's FAP benefits effective September 1, 2016.

First, the subsequent closure of Petitioner's case was based on her failure to return the new hire. To support its argument, the Department presented an Electronic Case File (ECF) to show that it did not receive the new hire by the due date. Exhibit A, pp. 8-9. However, the undersigned finds that Petitioner provided credible testimony that she did submit the new hire before the due date of July 18, 2016. Petitioner's credibility is supported by the fact that the Department, on two separate occasions, requested verification of her loss of employment and new employment. See Exhibit A, pp. 4-5 and 24-27. On both occasions, Petitioner replied to the verification requests and submitted the requested documents to the Department. These actions supports Petitioner's claim that she would have also responded to the new hire and submit it timely to the Department. As such, the undersigned finds Petitioner's testimony credible that she submitted the new hire prior to the due date in accordance with Department policy. See BAM 807, pp. 1-2.

Second, the evidence established that there was a discrepancy as to the name/address of her new employment in which the Department indicated that the case was certified closed due to the conflicting information. See Exhibit A, pp. 26-28 ██████████ vs. ██████████. However, the caseworker should have not certified the FAP case closure due the conflicting information without first giving Petitioner the opportunity to

resolve this discrepancy. Policy states that before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between her statements and information from another source. BAM 130, p. 9. The Department failed to present any evidence showing that it contacted Petitioner inquiring on the discrepancy of her reported employment. Per policy, the Department should have given the client a reasonable opportunity to resolve the discrepancy between her statements that she works at [REDACTED] vs. the new hire report stating she works at [REDACTED]. Because the Department failed to provide Petitioner a reasonable opportunity to resolve the discrepancy as to her new employment, it improperly closed her FAP benefits effective September 1, 2016. BAM 130, p. 9.

For the above stated reasons, the undersigned finds that the Department improperly closed Petitioner's FAP benefits in accordance with Department policy. BAM 130, pp. 7-9 and BAM 807, pp. 1-2. Accordingly, the Department will redetermine Petitioner's FAP eligibility effective September 1, 2016.

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 improperly closed Petitioner's FAP benefits effective September 1, 2016.

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. Redetermine Petitioner's FAP eligibility for September 1, 2016;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from September 1, 2016, ongoing; and
3. Notify Petitioner of its decision.

EF/tm


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]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

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

CC:

[REDACTED]
[REDACTED]