



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 7, 2016
MAHS Docket No.: 16-014606
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close the Petitioner's 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 [REDACTED], the Department sent the Petitioner a Redetermination form due date of [REDACTED]. The Petitioner returned the completed Redetermination form on [REDACTED].
2. On [REDACTED], the Department sent the Petitioner a Verification Checklist (VCL) requesting income from wages, salary and tips.
3. On [REDACTED], the Department sent the Petitioner a Verification of Employment to be filled out by the Petitioner's employer.

4. On [REDACTED], and [REDACTED], the Petitioner provided the Department with two check stubs.
5. The Verification of Employment was not filled out by the Petitioner's employer, and the Petitioner told the Department his employer refused to fill out the Verification of Employment form.
6. The Department contacted the Petitioner's employer, and the employer again refused to complete the Verification of Employment.
7. On [REDACTED], the Department sent the Petitioner a Notice of Case Action closing his FAP benefits for failure to provide requested documentation.
8. On [REDACTED], the Petitioner requested a hearing to protest the closure of his FAP benefits.

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.

In this case, the Department requested verification of the Petitioner's employment and income. The Petitioner informed the Department that his employer refused to fill out the Verification of Employment form.

Subsequently, the Department contacted the Petitioner's employer and requested that the Verification of Employment form be completed by the employer. The employer refused.

The Department was well within its rights to request the Petitioner's employer provide the information that it had requested. (BEM 130, July 2016).

In this instance, Petitioner attempted to comply with the request of the Department as evidenced by his providing two check stubs.

At the hearing, the Petitioner testified that he had just begun to work for this employer and only had two check stubs to provide to the Department.

Department policy envisions such a problem and directs the Department to utilize the best information available. (BEM 130, July 2016).

The Department could have utilized prospective income budgeting to make up for the Petitioner's providing two weeks of pay stubs rather than 30 days.

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 use the best information available to calculate the Petitioner's income.

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. Reinstatement the Petitioner's FAP benefits retroactively back to [REDACTED], and supplement for any missed benefits.

MJB/jaf



Michael J. Bennane
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]

[REDACTED]