



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: November 28, 2016
MAHS Docket No.: 16-015171
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)?

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 New Hire Client Notice requesting various pieces of information/documentation.
2. On [REDACTED], the Department sent the Petitioner a Notice of Case Action informing her that her FAP benefits have been closed.
3. On [REDACTED] the Department sent the Petitioner's employer, [REDACTED] a Verification of Employment form requesting various pieces of information with a due date of [REDACTED].

4. On [REDACTED], the Petitioner requested a hearing to protest the closure of her 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 Petitioner was sent a New Hire Client Notice (NHCN) requesting various pieces of information concerning the Petitioner's employment and income. This verification form was sent to the Petitioner's employer, who told the Petitioner that it had been filled out and sent by facsimile to the Department.

The Department denied it had received the form from the Petitioner's employer and another form, Verification of Employment, was sent to the Petitioner's employer. The Petitioner's employer failed to return the form correctly filled out and a day late.

The Department then sent the Notice of Case Action closing the Petitioner's FAP benefits.

The Department was following Department policy in its attempts to garner the Petitioner's employment information; but when it became apparent that the Petitioner was experiencing problems in getting her employer to correctly provide the requested information, the Department should have assisted the Petitioner in getting the requested information.

In fact the Department did aid the Petitioner in getting the Verification of Employment completed by her employer; but when that attempt failed to provide the information requested by the Department, the Department closed the Petitioner's FAP benefits.

Department policy demands that the Department provide assistance to clients that are unable to get the information required from their employer. (BAM 130, July 2016).

This Petitioner was obviously making many attempts to comply with the Department's requests. When the second attempt to get the proper information failed, the Department just closed the Petitioner's FAP case.

The undersigned ALJ finds that although the Department knew that the Petitioner was having problems getting the requested information from her employer and in fact did attempt to assist the Petitioner when that attempt was not successful, the Department closed the Petitioner's FAP benefits.

This ALJ finds that when the Department failed to obtain the information it wanted, the Department should have used the best information available. (BAM 130, July 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 failed to assist and/or use the best information available before denying the Petitioner's benefits.

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. Reinstate 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]