



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: December 6, 2016
MAHS Docket No.: 16-015964
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 November 28, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's FAP benefits effective November 1, 2016 for failure to return verification?

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 a FAP recipient.
2. On [REDACTED], Petitioner submitted a Change Report, notifying the Department that her son was employed.
3. On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL) and Verification of Employment seeking additional information regarding her son's employment.
4. The VCL was due on or before [REDACTED].

5. On [REDACTED], Petitioner sent the Verification of Employment by email and by regular mail to her assigned worker.
6. The Department's records did not show receipt of the Verification of Employment until [REDACTED].
7. On [REDACTED], the Department sent Petitioner a Notice of Case Action which informed Petitioner that her FAP benefits would close effective [REDACTED] for failure to timely return requested verification.
8. On [REDACTED], Petitioner filed a Request for Hearing disputing the Department's actions.

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, Petitioner submitted a Change Report to the Department which indicated that her son was employed. The Department testified that as a result of receiving the Change Report, it sent Petitioner a VCL and Verification of Employment, both of which requested verifying information related to the employment. The VCL was sent on [REDACTED] and stated that the requested information was due on or before [REDACTED].

Petitioner testified that she placed a large "X" on the first page of the Verification of Employment and also indicated N/A. Petitioner stated that because the employment had ended, she was unaware that she was expected to take the form to the former employer. Petitioner further testified that she sent the Verification of Employment to her assigned worker by regular mail and email on [REDACTED]. Petitioner later submitted an updated Change Report on [REDACTED]. Given that Petitioner submitted two change reports and the Department received the mailed copy of the Verification of Employment on [REDACTED], Petitioner's testimony that she emailed a copy of the Employment Verification to her worker on [REDACTED] is found credible.

Under Department policy, the Department sends a negative action notice when:

- o The client indicates refusal to provide a verification, or
- o The time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130 (July 2016), p. 7.

It is found that even though Petitioner's belief that she did not need to take the form to the previous employer was mistaken, she made reasonable efforts to comply with the Department's request. Further, Petitioner stated that she asked her assigned worker, via email, if the documents submitted were acceptable but received no response. The undersigned interprets the question posed by Petitioner in the email as a request for assistance to the extent that the information was insufficient. Under Department policy, the client must obtain required verification, but the local office must assist if they need and request help. BAM 130, p 3.

In the Notice of Case Action, the reason for the closure was cited as the Verification of Employment not being returned for Petitioner's son. This is incorrect, as the Verification of Employment was returned but deemed insufficient by the Department. Given that Petitioner made a reasonable effort to comply with the Department and requested assistance from her worker which was not received, it is found that the Department improperly closed Petitioner's FAP benefits effective [REDACTED].

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 closed Petitioner's FAP benefits.

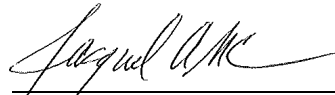
Accordingly, the Department's decision is **REVERSED**.

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. Redetermine Petitioner's eligibility for FAP benefits effective [REDACTED];
2. Issue supplements Petitioner was eligible to receive but did not effective [REDACTED]; and [REDACTED]

3. Notify Petitioner in writing of its decision.

JM/hw



Jacquelyn A. McClinton
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]

Petitioner

[REDACTED]