



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: January 9, 2017
MAHS Docket No.: 16-018088
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 January 4, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], manager, and [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility due to Petitioner's alleged failure to verify income.

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 FAP benefit recipient.
2. On [REDACTED], MDHHS mailed Petitioner a Verification Checklist (VCL) requesting "Missing check stubs."
3. The VCL due date was [REDACTED].
4. On [REDACTED], MDHHS initiated termination of Petitioner's FAP eligibility, effective January 2017, due to Petitioner's alleged failure to verify employment income.

5. On [REDACTED], Petitioner requested a hearing to dispute the termination of FAP eligibility.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FAP benefits. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-4) dated November [REDACTED]. The notice stated Petitioner's FAP eligibility would end January 2017 due to an alleged failure to verify income.

It was not disputed Petitioner had 3 different jobs. It was not disputed Petitioner submitted pay stubs to MDHHS for each of her jobs. MDHHS alleged Petitioner needed to submit 30 days of income for each of her jobs. MDHHS alleged Petitioner failed to provide a needed pay stub from one of her jobs.

It was not disputed that Petitioner submitted the needed pay information to MDHHS on [REDACTED]. Consideration was given to reversing MDHHS for not revoking the termination upon Petitioner's submission.

There are two types of written notice: adequate and timely. BAM 220 (July 2016), p. 2. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). *Id.* A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. *Id.*, p. 4.

The termination notice dated [REDACTED], essentially gave client until [REDACTED], to comply with the verification request. Petitioner's submission on [REDACTED] was compliance. Upon receipt of Petitioner's verifications, MDHHS should have revoked the closure (or reinstated eligibility if it was past [REDACTED], [REDACTED] MDHHS cannot be ordered to reverse the termination for this basis because Petitioner's compliance was not technically the basis of her hearing request compliance did not occur until 2 days after Petitioner requested a hearing). The analysis can address whether MDHHS properly requested Petitioner's employment income information.

MDHHS presented a Verification Checklist (VCL) (Exhibit 1, pp. 5-6) dated [REDACTED]. The VCL requested "Missing check stubs."

[For all programs, MDHHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (July 2016), p. 3. [MDHHS must] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date.... *Id.*, p. 3.

A request for “Missing check stubs” is not particularly helpful in informing Petitioner which pay stub from one of her 3 jobs was needed. The vague request is deemed to be insufficient. Petitioner cannot be faulted for failing to comply with the insufficient request.

It is found MDHHS failed to properly request proof of Petitioner’s income. Thus, the subsequent termination based on Petitioner’s failure to comply with the VCL was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner’s FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner’s FAP eligibility, effective January 2017, subject to the finding MDHHS failed to sufficiently specify the information needed from Petitioner on a VCL dated [REDACTED] and
- (2) Initiate a supplement of any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki
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]