



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.: 16-018092
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], hearing facilitator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) application.

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], Petitioner applied for FAP benefits.
2. On [REDACTED], MDHHS mailed Petitioner a VCL to request savings accounts listed on her application.
3. Petitioner timely verified the bank accounts she listed on her application.
4. Petitioner's application did not report a savings account that was in her name.

5. MDHHS did not request verification of the savings account unreported on Petitioner's application.
6. On [REDACTED] MDHHS denied Petitioner's FAP application due to Petitioner's failure to verify assets.
7. On [REDACTED], Petitioner requested a hearing to dispute the application denial.

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 FAP application denial. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-2) dated October 31, 2016. The stated reason for denial was Petitioner's alleged failure to verify assets.

Assets must be considered in determining eligibility for... FAP. BEM 400 (July 2016), p. 1. [MDHHS is to] verify the value of countable assets at application, redetermination and when a change is reported. *Id.*, p. 58.

[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. [MDHHS is to] send 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. *Id.*

MDHHS presented a Verification Checklist (Exhibit 1, pp. 3-4) dated [REDACTED]. The VCL requested Petitioner's savings account balances. A comment on the VCL cited a need to verify the accounts from two specific banks. It was not disputed that the two savings accounts were the only two listed on Petitioner's benefit application. The VCL due date was [REDACTED].

MDHHS presented Petitioner's savings account verifications (Exhibit 1, pp. 6-7). It was not disputed that Petitioner timely provided verification for the bank accounts listed on her application and the VCL. The dispute concerned a third account.

One of Petitioner's submitted bank statements referenced a transfer of funds to a bank account previously unreported by Petitioner (see Exhibit 1, p. 6). Petitioner testified that the account was unreported because it was only her account in-name-only. Petitioner testified she opened the account for a friend who was unable to open an account due to a previous history of bouncing checks.

MDHHS properly assumed the unreported account belonged to Petitioner. There is no doubt that Petitioner had an obligation to report the bank account and failed to timely do so. There is also little doubt that whatever assets were in the account, the assets are countable towards Petitioner's asset limit. The only doubt about the validity of the application denial is whether MDHHS should have sent a second VCL to request verification of the unreported account.

MDHHS had already mailed Petitioner a VCL concerning savings account before denying Petitioner's application. Appreciation can be mustered for why MDHHS did not send a second VCL to verify an account that was previously unreported by Petitioner. Despite the appreciation, MDHHS policy appears to require a second VCL mailing. The previously sent VCL did not request Petitioner's unreported savings account information. As MDHHS policy requires, MDHHS must request the verification, including what is required, before denying an application. There is no known MDHHS policy which allows MDHHS to circumvent the verification requirement simply because a client failed to report information.

It is found MDHHS was required to mail Petitioner a second VCL upon discovery of Petitioner's unreported savings account. Accordingly, the corresponding FAP application denial was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's FAP application. 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 application dated [REDACTED]; and
- (2) Initiate processing of Petitioner's application subject to the finding that MDHHS failed to mail Petitioner a VCL concerning a savings account which Petitioner failed to report on her application.

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

Christian Gardocki

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]