



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 13, 2017
MAHS Docket No.: 16-018293
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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, an in-person hearing was held on January 12, 2017, from Sterling Heights, Michigan. The Petitioner was represented by her husband/Authorized Hearing Representative (AHR), [REDACTED] and herself, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective December 1, 2016?

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 recipient of FAP benefits.
2. On October 10, 2016, the Department sent Petitioner a Redetermination (DHS-1010) to complete and it was due back by November 9, 2016. Exhibit B, pp. 4-5.
3. On November 2, 2016, Petitioner submitted the redetermination.

4. On November 16, 2016, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of lot rent and checking account and it was due back by November 28, 2016.
5. On November 28, 2016, Petitioner submitted verification of the lot rent and checking account. Exhibit C, pp. 1-2.
6. On December 2, 2016, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits closed effective December 1, 2016 because she failed to comply with the verification requirements. Exhibit A, pp. 17-18.
7. On December 12, 2016, Petitioner's AHR filed a hearing request, protesting the Department's action. Exhibit A, pp. 2-5.

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.

Preliminary matters

First, Petitioner's AHR also requested a hearing at the same time disputing the denial of Petitioner's Medical Assistance (MA) disability determination. Exhibit A, p. 3. The undersigned Administrative Law Judge (ALJ) conducted a separate hearing on the same day to address Petitioner's MA disability, Reg. No. 16-018294. The undersigned ALJ will issue a separate decision to address Petitioner's MA disability hearing.

Second, shortly after commencement of the hearing, the Department read the Hearing Summary (DHS-3050) into the record and the Hearing Summary stated that Petitioner was over the income limit for the FAP benefits. Exhibit A, 1. However, the Notice of Case Action stated the Petitioner's FAP benefits closed due to her failure to provide verifications. Exhibit A, pp. 17-18. As such, the undersigned ALJ will not address the excess income issue and instead, address the FAP closure reason, which was a verification issue.

FAP closure

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (July 2016), p. 1. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210, p. 1. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1.

For the redetermination process, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 16. If the tenth day falls on a weekend or holiday, the verification will not be due until the next business day. BAM 210, p. 16. Note, the DHS-3503, Verification Checklist, should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, p. 16. If verifications are provided by the required deadline but too late for normal benefit issuance, benefits must be issued within five work-days. BAM 210, p. 16.

Furthermore, BAM 130, Verification and Collateral Contacts, states the Department sends 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. BAM 130 (July 2016), p. 7.

In the present case, the Department closed Petitioner's FAP benefits because it argued that she failed to comply with the verification requirements. However, the undersigned ALJ disagrees. The Department requested that Petitioner submit verification of the lot rent and checking account by November 28, 2016. The evidence established that Petitioner complied with the VCL request when she submitted the documents by the due date. See Exhibit C, pp. 1-2. As such, the undersigned ALJ finds the Department improperly closed Petitioner's FAP benefits because she timely submitted the requested verifications. See BAM 130, p. 7 and BAM 210, p. 16. Therefore, the Department will redetermine Petitioner's FAP eligibility effective December 1, 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 improperly closed Petitioner's FAP benefits effective December 1, 2016.

Accordingly, the Department's FAP 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 FAP eligibility effective December 1, 2016;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from December 1, 2016, ongoing; and
3. Notify Petitioner of its decision.

EF/tm



Eric J. Feldman
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]
[REDACTED]
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[REDACTED]

CC: [REDACTED]
[REDACTED]