



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 31, 2017
MAHS Docket No.: 16-019006
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 24, 2017, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Hearings Facilitator [REDACTED] [REDACTED]

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits?

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 on-going FAP recipient.
2. On September 1, 2016, the Department mailed to her a semi-annual contact report form; her response was due by October 1, 2016.
3. On October 10, 2016, the Department mailed to Petitioner a Notice of Case Action, informing her that her FAP would be closed due to her failure to return the completed form.
4. On November 30, 2016, Petitioner reapplied for FAP.

5. After the application was processed, a Verification Checklist was mailed on December 2, 2016, requiring her to verify assets by December 12, 2016.
6. Petitioner provided the Department with printouts of some bank records (Exhibit A Pages 5-10) but each record either had a redaction, did not provide an account number, did not provide Petitioner's name, or a combination of those factors.
7. A Quick Note (Page 13) was mailed on December 2, 2016, informing Petitioner that she needed to provide unaltered documents.
8. Petitioner received \$█ in FAP for October, nothing in November, and \$█ in December of 2016, for a group of two.
9. The Department received Petitioner's hearing request on December 15, 2016, protesting the closure of her FAP.

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.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

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.

The issue is whether the Petitioner provided timely verification in response to the request. The evidence is persuasive that the forms were mailed to Petitioner at her address of record. The evidence also establishes that Petitioner did not fully respond or make a reasonable effort to respond by the deadline. The evidence shows that the forms she submitted to the Department were not complete or had redactions. She was given an extension.

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 acted in accordance with Department policy when it closed Petitioner's FAP.

Before concluding this Decision, a comment must be made about the Department's hearing packet. Clients can – and do – lose benefits if they do not provide the Department with completed documentation. The hearing packet in this case was woefully short of what is expected to be included. There was no Notice of Case Action included. Policy explains what is to be submitted when a hearing is requested. See BAM 600 (10/1/16) p. 20.

Hearing Summary

All Programs

Complete a DHS-3050, Hearing Summary, prior to the meaningful prehearing conference. In the event additional space is required to complete the DHS-3050, Hearing Summary, attach a Word document to the DHS-3050 and number the Word document accordingly. All case identifiers and notations on case status must be complete.

The hearing summary must include all of the following:

- A clear statement of the case action, in chronological order, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the client and the AHR.
- Description of the documents the local office intends to offer as exhibits at the hearing.

Number the document copies consecutively in the lower right corner; begin numbering with the hearing summary.

The Hearing Notice also advises the parties, including the Department, that they are to submit proposed evidence to the Administrative Law Judge prior to the hearing. A Notice of Case Action, a Semi-Annual Contact Report, and Verification Checklists are just some of the documents that would be important evidence to be considered, and therefore they should be included in the hearing packet. None of that was provided in this case, making the review more complicated than it should have been.

BAM 600 goes on to state, at page 23:

The second-line manager or designee must review all hearing requests which are **not** resolved by the first-line supervisor. The purpose of the review is to assure that local office staff has done the following:

- Applied MDHHS policies and procedures correctly.
- Explained MDHHS policies and procedures to the client and AHR.
- Explored alternatives.
- Offered appropriate referrals to the client.
- Considered requesting a central office policy clarification or policy exception, if appropriate.

By signing box 4 on the DHS-3050, Hearing Summary, the second-line manager must certify:

- The date the DHS-1560, Notice of Prehearing Conference, was sent to the client and AHR, if any.
- The reason the hearing request could not be resolved.
- That eligibility was properly determined for this case.
- That the hearing request cannot be resolved, except through a formal hearing and the reason(s) why.

The managerial certification does not replace the hearing process. The hearing must be held as scheduled unless the hearing request is withdrawn using a DHS-18A, Hearing Request Withdrawal.

The second line manager or designee must evaluate the advisability of a hearing in relation to such factors as intent of policy, type of issue(s) raised, strength of the department's case, and administrative alternative.

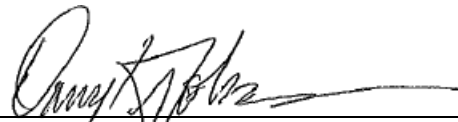
This second-level review does not seem to have happened here, because there is no entry in Box 4 of the DHS-3050. Just as clients are expected to comply with the applicable polices, that same cooperation is expected of the Department. There is no consequence that an Administrative Law Judge can impose upon the Department for its

non-compliance; we can only remind the Department of its duties and hopefully, over time, foster better compliance.

DECISION AND ORDER

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

DJ/mc



Darryl Johnson
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]