



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: February 9, 2017  
MAHS Docket No.: 17-000365  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

### 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 February 6, 2017, from Lansing, Michigan. Petitioner appeared and represented herself. [REDACTED] [REDACTED] Hearing Facilitator/Eligibility Specialist, appeared on behalf of the Department of Health and Human Services (Department).

The Department offered the following exhibits which were marked and admitted into evidence: [**Department's Exhibit 1:** Hearing Summary (page 1), Request for Hearing (page 2), Prehearing Conference Letter (page 3), Assistance Application (pages 4-5), Notice of Case Action dated December 19, 2016 (pages 6-9), Bridges Eligibility Summary (page 10), and Notice of Case Action dated October 28, 2016 (pages 11-14); **Department's Exhibit 2:** New Hire Client Notice (pages 15-16)].

Petitioner did not offer any exhibits into evidence.

The record closed at the conclusion of the hearing.

### ISSUES

Did the Department properly close Petitioner's Food Assistance Program (FAP) case due to failure to return requested verifications?

Did the Department determine the proper amount of Petitioner's FAP benefits for the month of December 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 unemployed at the time and was actively receiving \$ [REDACTED] per month in FAP benefits for a group size of 3. [Department's Exhibit 1, p. 10].
2. In October 2016, Petitioner informed her Department local office caseworker that she had accepted a job offer. [Hearing Testimony].
3. On October 11, 2016, the Department mailed Petitioner a New Hire Client Notice (DHS-4635), which requested that Petitioner and her new employer complete, sign and submit the form before October 21, 2016. [Dept. Exh. 2, pp. 15-16].
4. On the second day of work, Petitioner's car malfunctioned and she was no longer able to maintain employment due to lack of reliable transportation. [Hrg. Test.].
5. Petitioner promptly called her caseworker to report that she was no longer employed and requested assistance with the New Hire Client Notice. The caseworker instructed Petitioner that she was not required to complete and return the New Hire Client Notice, but if she chose to do so, she should indicate on the notice that she was no longer employed. [Hrg. Test.].
6. The local office reassigned Petitioner to a different caseworker. Petitioner was not advised that she had a new caseworker. [Hrg. Test.].
7. Upon the advice of her caseworker, Petitioner completed the New Hire Client Notice and signed the document on November 19, 2016. The local office received Petitioner's New Hire Client Notice on November 25, 2016. [Hrg. Test.].
8. On October 28, 2016, the Department mailed Petitioner a Notice of Case Action (DHS-1605), which indicated that Petitioner's FAP case would close effective December 1, 2016, because she failed to provide requested verification information. [Dept. Exh. 1, pp. 11-14].
9. On December 19, 2016, Petitioner submitted an online application for FAP and Medical Assistance (MA) benefits. [Dept. Exh. 1, pp. 4-5].
10. On December 19, 2016, the Department mailed Petitioner a Notice of Case Action (DHS-1605) which approved Petitioner for FAP benefits in the amount of \$ [REDACTED] for the period of December 19, 2016, through December 31, 2016, and for \$ [REDACTED] per month for the period of January 1, 2017, through November 30, 2017. [Dept. Exh. 1, pp. 6-9].

11. On January 11, 2017, the Department received Petitioner's request for hearing concerning the closure of her FAP benefits and the amount of her December 2016 monthly FAP allotment. [Request for Hearing].

### **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.

There are two issues that must be decided in the instant matter. The first issue concerns whether the Department properly closed Petitioner's FAP case due to failure to timely return the New Hire Client Notice. The second question concerns whether the Department properly determined that Petitioner was eligible for FAP benefits in the amount of \$ [REDACTED] from December 19, 2016, to December 31, 2016.

#### **FAP closure for failure to return the New Hire Client Notice**

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. There is no dispute that Petitioner failed to timely return the New Hire Client Notice. The New Hire Client Notice was due on or before October 21, 2016, but Petitioner did not return it to the Department until November 25, 2016. [Dept. Exh. 1, p. 15 & Hrg. Test.]. Petitioner does not dispute this, but contends that her caseworker advised her that she was not required to complete and return the form or, in the alternative, she should submit the form but indicate that her employment ended after only working 1 day on the job. Petitioner elected to complete and return the New Hire Client Notice approximately one month after the due date.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, (1-1-2017) p. 1. The Department will obtain verification when: (1) required by policy<sup>1</sup>; (2) required as a local office option<sup>2</sup>; or

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<sup>1</sup> Bridges Eligibility Manual (BEM) items and MAGI policy specify which factors and under what circumstances verification is required.

(3) information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. BAM 130, p. 1. Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130, p. 1.

The client must obtain required verification, but the local office must assist if they need and request help. BAM 130, p. 3. [Emphasis added]. If neither the client nor the local office can obtain verification despite a reasonable effort, [the Department worker should] use the best available information. If **no** evidence is available, [the Department worker should] use your best judgment. BAM 130, p. 3. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 10.

The State New Hires Match is a daily data exchange of information collected by the Michigan New Hire Operations Center and obtained through the Office of Child Support. State New Hires information is used to determine current income sources for active MDHHS clients. BAM 807 (1-1-2017), p. 1.

In order to verify that a client has new income from employment, policy requires the Department contact the client immediately if the employment has not been previously reported. The Department must also request verification by generating a DHS-4635, New Hire Notice. BAM 807, p. 1. When a DHS-4635 is requested, the Department's computer system (referred to as "Bridges") automatically gives the client 10 calendar days to provide verification from the date the forms were requested. BAM 807, p. 2.

When income verification is returned, policy requires the Department make the appropriate changes in Bridges and run the eligibility determination benefit calculation (EDBC) to reduce or close the benefits. If verifications are not returned by the tenth day, case action will need to be initiated to close the case in Bridges. If the client reapplies, the date the client reapplies determines if State New Hires verification must be returned before processing the new application. BAM 807, p. 2.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Department policy requires FAP recipients to report changes in circumstances that potentially affect eligibility or benefit amount. BAM 105 (10-1-2016), pp. 10-11. Here, Petitioner complied with BAM 105 when she promptly contacted her caseworker and reported that she had a new job. Further, Petitioner's testimony was credible that she called her caseworker and requested help concerning the New Hire Client Notice. See BAM 130, p. 3. The Department did not provide any evidence that Petitioner called her caseworker requesting assistance after the October 21, 2016, due date. In addition, BAM 807, p. 2, requires the New Hires Notice verification to be submitted within 10 days. Here, when the caseworker advised

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<sup>2</sup> The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for Medicaid Assistance (MA).

Petitioner that she was not required to submit the new hire client notice, she was given advice that contradicted BAM 807's requirement to submit the verification within 10 days. In addition, BAM 103, p. 3, requires the Department provide assistance when the client calls and requests assistance. In addition, here, Petitioner requested assistance, but was provided with inadequate assistance that was in violation of policy (BAM 807). It should also be noted that although Petitioner submitted the New Hire Client Notice late, the notice was received prior to the effective date of closure, which was December 1, 2016.

According to Petitioner's credible testimony at the hearing, the caseworker instructed her not to return the New Hire Client Notice, or, at the very least, advised her that she could return the notice after the October 21, 2016, due date. This Administrative Law Judge finds that the Department cannot instruct a client not to turn in verifications that are required to determine eligibility. This violates BAM 807 and does not constitute proper client assistance as defined by BAM 130, p. 3.

Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that the Petitioner acted properly and cooperated with the Department concerning her new employment. The Department failed to comply with BAM 130, when it instructed Petitioner that she was not required to turn in the New Hire Client Notice, which led to the improper closure of her FAP case.

\$ [REDACTED] FAP allotment for December 19, 2016, to December 31, 2016

Based upon the reasons stated above, this Administrative Law Judge finds that the Department should not have closed Petitioner's FAP case effective December 1, 2016. The Department's improper closure resulted in Petitioner submitting a new application for FAP benefits on December 19, 2016. Accordingly, the Department determined that Petitioner was not eligible for FAP benefits from December 1, 2016, through December 19, 2016, and that she was only eligible for a pro-rated FAP amount. In other words, rather than being eligible for the full \$ [REDACTED] in monthly FAP benefits, the Department determined that Petitioner's period of eligibility began on December 19, 2016, which entitled her to a pro-rated amount of \$ [REDACTED] for the month. However, because the closure was not proper, Petitioner may have been eligible for FAP benefits from December 1, 2016, to December 19, 2016. Petitioner's FAP case should not have been closed in the month of December 2016 and should be reinstated.

Reinstatement restores a closed program to active status without completion of a new application. See BAM 205 (7-1-2016), p. 2. Per BAM 205, p. 2, closed programs may be reinstated for any of the following reasons:

- Closed in error.
- Closed-correct information not entered.

- Timely hearing request.
- Redetermination packet not logged in.
- Hearing decision ordered reinstatement.
- Complied with program requirements before negative action date.
- DHS-1046 manually sent and due date is after the last day of the 6th month.
- Court ordered reinstatement.
- MAGI Medicaid 90 day passive renewals. [Emphasis added].

Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that Petitioner's FAP case should not have been closed and should be reinstated for the period of December 1, 2016, through December 19, 2016. Petitioner may be entitled to supplemental or retroactive FAP benefits during this time period.

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 effective December 1, 2016, and also failed to comply with policy when it determined that Petitioner was eligible for the pro-rated amount of \$ [REDACTED] in FAP benefits for the period of December 19, 2016, through December 31, 2016.

### **DECISION AND ORDER**

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. Reinstatement of Petitioner's FAP case prior to the date of closure (effective December 1, 2016).
2. Redetermine Petitioner's FAP eligibility (and total FAP allotment amount) for the month of December 2016.
3. Determine whether Petitioner is entitled to supplemental or retroactive FAP benefits for the period of December 1, 2016, through December 19, 2016.

4. Provide Petitioner with written communication concerning the above redetermination.

**IT IS SO ORDERED.**

CAP/mc



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**C. Adam Purnell**  
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]