



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: March 3, 2017
MAHS Docket No.: 17-001170
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 ██████████. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by ██████████, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program benefits effective ██████████?

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 had been receiving FAP benefits prior to ██████████.
2. On ██████████ the Department sent Petitioner a Notice of Case Action which notified Petitioner that his FAP benefits would close effective ██████████ for failure to return verifications.
3. On ██████████ Petitioner filed a Request for Hearing disputing the Department's actions.

4. On [REDACTED] a hearing was held at which time the Department testified that Petitioner's FAP benefits had been reinstated.
5. Petitioner's Request for Hearing was dismissed as the Administrative Law Judge presiding over the matter held there was no issue to resolve.
6. On [REDACTED] [REDACTED] [REDACTED] the Department sent Petitioner a Verification of Employment which was due to be returned on or before [REDACTED].
7. The Department did not receive the requested information prior to the due date and on [REDACTED], it sent Petitioner a Notice of Case Action which informed Petitioner that his FAP benefits would close effective [REDACTED].
8. On [REDACTED], Petitioner filed a Request for Hearing disputing the Department's actions.

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.

In this case, Petitioner's FAP benefits initially closed in [REDACTED] as a result of a Notice of Case Action sent by the Department on [REDACTED]. Petitioner requested a hearing, which was conducted on [REDACTED]. At that hearing, the Department testified that Petitioner's benefits had been reinstated and as a result, the hearing was dismissed. Under Department policy, verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130 (July 2016), p. 1. [REDACTED], the Department sent Petitioner a Verification of Employment to be completed and returned by [REDACTED]. The Department testified that it did not receive the verification, and on [REDACTED] [REDACTED], it sent Petitioner a Notice of Case Action which notified Petitioner that his FAP benefits would close effective [REDACTED]. The Department conceded that Petitioner's FAP benefits were never reinstated. The Department explained that at the [REDACTED] hearing, Petitioner's FAP benefits were reinstated but in a pending status. However, the Department was unable to articulate what documents were needed while the case was in a pending status.

Petitioner acknowledged that he received the [REDACTED] Verification of Employment. Petitioner testified that he left a message with his assigned case worker indicating that he had not experienced any loss or change in employment and further left contact information for his employment on the voicemail of his assigned worker. Petitioner testified that he requested his assigned worker contact him if she needed any additional information. Petitioner indicated that he did not hear from his assigned worker but instead received the notice stating that his benefits would close.

The Department confirmed that it received Verification of Employment from Petitioner in [REDACTED] and that Petitioner had not stopped, started or changed employment since it received the verification in [REDACTED]. As such, there does not appear to be a valid reason for the [REDACTED] request for verification. Additionally, Petitioner made a reasonable effort to provide the information to the Department when he placed a telephone call to his assigned worker and left the contact information to his current employer. As such, it is found that the Department improperly closed Petitioner's FAP benefits effective [REDACTED].

DECISION AND ORDER

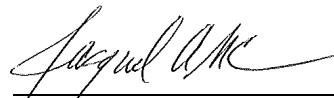
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP benefits effective [REDACTED].

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. Reinstate Petitioner's FAP benefits effective [REDACTED]
2. Issue FAP supplements Petitioner was eligible to receive but did not; and
3. Notify Petitioner of its decision in writing.

JM/hw



Jacquelyn A. McClinton

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]

[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]