



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: June 9, 2017
MAHS Docket No.: 17-004184
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 [REDACTED] from [REDACTED] Michigan. The Petitioner was represented by the Authorized Hearing Representatives (AHRs)/Counsel, [REDACTED] from [REDACTED], and [REDACTED], Law Clerk from [REDACTED]. Petitioner was present for the hearing and provided testimony. The Department of Health and Human Services (Department) was represented Assistant Attorney General (AAG) [REDACTED], who participated by telephone for the hearing. Also, [REDACTED], Eligibility Specialist; and [REDACTED], Assistant Payment Supervisor, were present for the hearing and provided testimony.

ISSUE

Did the Department properly close Petitioner's Food Assistant Program (FAP) benefits effective [REDACTED]?

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 is an ongoing recipient of FAP benefits, but she did not receive benefits from [REDACTED].
2. On [REDACTED], the Department sent Petitioner a Semi-Annual Contact Report (contact report) and the contact report was due back by [REDACTED];

however, policy allows Petitioner to submit the contact report by the end of the benefit period (██████████). [Exhibit A, pp. 4-5.]

3. On ██████████, the Department sent Petitioner a Notice of Potential Food Assistance (FAP) Closure (potential closure notice) and notified her that the Department did not receive her contact report and that her FAP benefits would close effective ██████████. [Exhibit A, p. 3.]
4. The Department indicated that it never received the contact report from Petitioner by ██████████.
5. Per the credible testimony by Petitioner, she submitted the contact report by the due date.
6. Effective ██████████, Petitioner's FAP benefits closed due to her alleged failure to return the contact report.
7. On ██████████, and ██████████, Petitioner filed a hearing requests, protesting the Department's action. [Exhibit A, p. 2 and Exhibit B, p. 1.]
8. On or about ██████████, Petitioner reapplied for FAP benefits and she was approved.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2016), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (January 2017), p. 1. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210, p. 1. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM

210, p. 1. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1.

For FAP only, the Department sends a DHS-2240-A, Mid-Certification Contact Notice, for groups assigned a 24-month benefit period during the 11th month of their benefit period and a DHS-1046, Semi-Annual Contact Report, the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210, p. 10.

The DHS-1046 and DHS-2240A may be completed by the client, the client's authorized filing representative or by the specialist (during a telephone call, home call or interview with the client). BAM 210, p. 10. However, the form must be signed by the client or authorized filing representative. BAM 210, p. 10.

A report is considered complete when all of the sections (including the signature section) on the DHS-1046 and the DHS 2240-A are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210, p. 10. If an expense has changed and the client does not return proof of the expense, but all of the sections on the report are answered completely, the Department removes the expense from the appropriate data collection screen in the Department's system (Bridges) before running eligibility determination and benefit calculation (EDBC). BAM 210, p. 10.

For 12-month benefit period, the semi-annual contact report must be recorded, data collection updated and EDBC results certified in Bridges by the last day of the sixth month of the benefit period to affect benefits no later than the seventh month. BAM 210, p. 11. The contact is met by receipt of a completed DHS-1046 and required verifications. BAM 210, p. 11.

If the DHS-1046 is not logged in the Department's system (Bridges) by the 10th day of the sixth month, the Department will generate a DHS-1046A, Potential Food Assistance (FAP) Closure, to the client. BAM 210, p. 13. This reminder notice explains that the client must return the DHS-1046 and all required verifications by the last day of the month, or the case will close. BAM 210, p. 13.

If the client fails to return a complete DHS-1046 by the last day of the sixth month, the Department's system (Bridges) will automatically close the case. BAM 210, p. 13. If the client reapplies, treat it as a new application and Department's system (Bridges) will prorate the benefits. BAM 210, p. 13.

If the completed DHS-1046 and verifications are returned by the last day of the sixth month, the Department process the changes to ensure the client's benefits are available no later than 10 days after their normal issuance date in the seventh month of the benefit period. BAM 210, p. 13.

In the present case, the Department argued that Petitioner failed to submit the contact report by the end of the benefit period (██████████), which resulted in her FAP case closure. Eligibility Specialist ██████████ testified that the Department properly

mailed the contact report to Petitioner's address. She testified that she did not receive the contact report by the due date; thus her benefits closed effective [REDACTED]. [REDACTED] testified that she reviewed Petitioner's Electronic Case File (ECF) and did not see any submission of her contact report. Assistant Payment Supervisor [REDACTED] also provided testimony as to the process on how the Department receives and processes documents.

Additionally, around the same time the contact notice was sent to Petitioner, the Department also sent her a New Hire Notice (new hire) requesting proof of her son's loss of employment. At first, the Department initiated closure of her FAP benefits due to her failure to submit the new hire/employment verifications, but later discovered that she actually submitted the verifications timely. [REDACTED] indicated that when she went to input the new hire, her FAP benefits were still closing and discovered that the benefits were still closing due to the contact report.

In response, Petitioner testified that she received the contact notice, completed the form, and mailed it back to the Department in the second week of [REDACTED]. Upon receipt of the potential closure notice, Petitioner testified that she called her caseworker to inquire about the closure notice as she thought she had submitted it. During the conversation, Petitioner testified that the discussion never addressed the contact notice not being received, rather, it addressed the employment verifications for her son. Petitioner testified that she had four to five conversations with her caseworker, Ms. [REDACTED], and she was never informed from her caseworker that the contact report was not received. On cross-examination, Petitioner testified that she did not have any proof (i.e., photo or copy) that she mailed the contact report.

In summary, the Department argued that new hire/employment verifications are not at issue in this case because the closure of the benefits was based on her failure to submit the contact report. The Department further argued that Petitioner received the contact report and she failed to submit it by [REDACTED]. Therefore, the Department claims that it properly closed her FAP benefits in accordance with Department policy.

The AHR's argued that Petitioner received the contact report and submitted it before the due date. Moreover, the AHR's argued that there is a pattern of mistakes by the Department regarding Petitioner's case. For example, the Department acknowledged that Petitioner did submit her new hire timely, yet, the Department sent her closure notice informing her that it did not receive those documents.

Based on the foregoing information and evidence, the undersigned Administrative Law Judge (ALJ) finds that the Department improperly closed Petitioner's FAP benefits effective [REDACTED]. The Department's position is that the Petitioner did not submit the contact report by [REDACTED]; and therefore, the closure of the FAP benefits was proper. However, the undersigned finds that Petitioner provided credible testimony that she completed and submitted the contact report via mail before the due date. Petitioner's testimony is supported by the Department's acknowledgment that it also received other verifications requested by the Department. For example, the Department

requested a new hire from Petitioner, which she did submit timely. This shows to the undersigned that Petitioner's ability to submit other requested verifications timely only bolsters her claim that she would have also submitted the contact notice timely. As such, the undersigned finds Petitioner's testimony credible that she submitted the contact notice before the due date. Therefore, the Department did not act in accordance with Department policy when it improperly closed Petitioner's FAP benefits effective [REDACTED] in accordance with Department policy. See BAM 210, pp. 1-13.

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 [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 case as of [REDACTED];
2. Redetermine Petitioner's FAP eligibility for [REDACTED], ongoing (redetermination process) in accordance with Department policy;
3. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
4. Notify Petitioner of its decision.

EJF/jaf



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

Counsel for Respondent
Via Email

[REDACTED]

Counsel for Petitioner
Via Email

[REDACTED]

DHHS
Via Email

[REDACTED]

Petitioner
Via USPS

[REDACTED]