



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: July 17, 2017
MAHS Docket No.: 17-007619
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 July 12, 2017, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Hearing Facilitator [REDACTED]

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) beginning April 1, 2017?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On June 1, 2012, Petitioner's mother, [REDACTED], passed away.
2. On August 22, 2012, the [REDACTED] County Probate Court appointed [REDACTED] as successor trustee for the [REDACTED] Trust. The trust has provisions to provide payment of undergraduate expenses for [REDACTED] who is [REDACTED] grandson.
3. On March 6, 2017, Petitioner submitted a Redetermination (DHS-1010) for her Food Assistance Program (FAP) eligibility redetermination, along with asset/trust verifications. Petitioner's Food Assistance Program (FAP) benefit group consists of herself and her son, [REDACTED] who is over 18 years old.

4. On March 21, 2017, [REDACTED] of the Department's Trust and Annuities Unit determined that the [REDACTED] Trust was accountable asset for purposes of determining Petitioner's Food Assistance Program (FAP) eligibility. That determination was made based on the fact that the trustee was not an entity not under the direction of ownership of any asset group member nor an individual appointed by the court. When the determination was made, the evaluator did not have knowledge that there was a court appointed trustee.
5. On March 22, 2017, Petitioner was sent a Notice of Case Action (DHS-1605) which stated her Food Assistance Program (FAP) would close April 1, 2017 due to excess assets.
6. On June 1, 2017, Petitioner submitted a hearing request.

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.

The [REDACTED] Trust contains at least \$ [REDACTED] for payment of [REDACTED] educational expenses. The evidence in this record does not indicate whether the Department was aware of the Trust during Petitioner's previous one year certification period for Food Assistance Program (FAP) benefits. The Department argues that the eligibility determination was correct because it was made before they were aware of the trustee status of the Trust. Regardless of that, the eligibility determination was not accurate because it was not based on the facts in existence at the time of the eligibility determination.

Bridges Administration Manual (BAM) 130 Verification and Collateral Contacts requires that the Department "Tell the client what verification is required, how to obtain it, and the due date." It is not expected that a case worker should have expertise in trusts. Neither is it expected for an applicant or recipient to have that expertise either. However, Department policy still establishes the requirement to inform applicants and recipients of all the verifications needed to make an accurate eligibility determination. In this particular case, that requirement of Department policy was not achieved.

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 Food Assistance Program (FAP) beginning April 1, 2017.

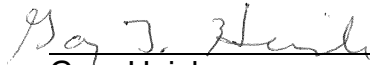
DECISION AND ORDER

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. Reinstate Petitioner's Food Assistance Program (FAP) eligibility redetermination and process it in accordance with Department policy to include a current evaluation of the [REDACTED] Trust in light of the facts in existence on April 1, 2017.
2. Following the redetermination, issue a current Notice of Case Action (DHS-1605).

GH/nr



Gary Heisler
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]