



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

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Date Mailed: August 25, 2017
MAHS Docket No.: ██████████ 17-008724
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; 42 CFR 438.400 to 438.424; 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 ██████████, from Ypsilanti, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by ██████████, Assistance Payment Supervisor.

ISSUE

Did the Department properly deny Petitioner's ██████████ application for 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. On ██████████, Petitioner applied for FAP benefits.
2. On ██████████, the Department sent Petitioner a Verification Checklist (VCL) requesting employment verification, heat expense, non-heat expense and rent expense.
3. Petitioner submitted one pay stub in response to the requested documentation.
4. On ██████████, the Department sent Petitioner a Benefit Notice which informed Petitioner that her application for FAP benefits had been denied.
5. On ██████████, 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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2015), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In the present case, Petitioner failed to timely submit her Redetermination and as a result, her FAP benefits case closed effective [REDACTED]. However, Petitioner did not file a request for hearing to contest the Department's action until [REDACTED]. Petitioner's hearing request as it relates to the closure of FAP benefits effective [REDACTED] was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction. BAM 600, p. 5.

Additionally, verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (April 2014), p. 1. In this case, Petitioner applied for FAP benefits on [REDACTED]. The Department indicated that it sent Petitioner a VCL requesting specific documentation, including the last 30 days of wages. The Department testified that on [REDACTED], it received one pay

stub from Petitioner which covered the pay period of [REDACTED]. The Department indicated that this was insufficient as it covered two weeks of earnings and not the required 30 days.

Petitioner acknowledged that she received the VCL. Petitioner testified that she submitted all the requested information including two paystubs, covering a 30-day period. Petitioner indicated that she submitted the documentation online. The Department testified that during the Pre-Hearing Conference held after the hearing was requested, it instructed Petitioner to bring pay stubs reflecting 30 days of earnings to the hearing. Petitioner stated that she sought medical attention the day before the hearing and was unable to print the document before appearing at the hearing. If Petitioner had previously submitted the documents online, there should have already been a printed copy of the documents.

Petitioner reapplied for benefits and successfully submitted all the requested information. As such, it does not appear that Petitioner had any physical or mental impairs which would have limited her ability to submitted the documents following the [REDACTED] application. Given that the Department received the one paystub, subsequently received the other paystubs and Petitioner provided no corroborating evidence that she complied with the [REDACTED] VCL, it is found that the Department properly denied Petitioner's application for FAP benefits.

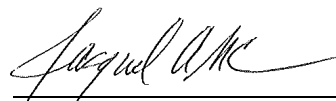
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Petitioner's [REDACTED] application for FAP benefits.

DECISION AND ORDER

Petitioner's Request for Hearing as it relates to the closure of FAP benefits effective [REDACTED] was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction

Accordingly, the Department's decision is to deny Petitioner [REDACTED] application for FAP benefits is **AFFIRMED**.

JAM/tlf



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

Via Email:

[REDACTED]

Petitioner – First-Class Mail:

[REDACTED]