



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: August 17, 2017
MAHS Docket No.: 17-008579
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on August 16, 2017, from Lansing, Michigan. The Petitioner represented herself. The Department was represented by [REDACTED]

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's request for a food benefit replacement?

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 March 16, 2016, Petitioner requested a food benefit replacement due to a storm-related power outage. Exhibit A, p 6.
2. On March 16, 2017, the Department sent Petitioner a Food Replacement Affidavit (DHS-601), which was returned to the Department on April 3, 2017. Exhibit A, p 6.
3. On March 31, 2017, the Department notified Petitioner that her application for a food benefit replacement had been denied for failure to return the required affidavit. Exhibit A, pp 2-3.
4. On May 20, 2017, the Department received verification of a storm-related power outage. Exhibit A, p 7.

5. On May 23, 2017, the Department notified Petitioner that her application for a food benefit replacement had been denied because she did not meet the criteria for that benefit. Exhibit A, pp 4-5.
6. On June 19, 2017, the Department received Petitioner's request for a hearing protesting the denial of a food benefit replacement.

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.

Food Assistance recipients may be issued a replacement of Food Assistance Program (FAP) benefits when food purchased with FAP benefits has been destroyed in a domestic misfortune or disaster and reported timely. There is no limit to the number of replacements for food purchased with food assistance benefits and destroyed in a domestic misfortune or disaster. Replacements and reauthorizations are processed only if the client reports the loss timely. Timely means within 10 days if the loss is due to domestic misfortune or disaster. Department of Health and Human Services Bridges Administrative Manual (BAM) 502 (July 1, 2013), pp 1-2.

On March 16, 2016, Petitioner requested a food benefit replacement due to a storm-related power outage. On March 16, 2017, the Department sent Petitioner a Food Replacement Affidavit (DHS-601), which was returned to the Department on April 3, 2017. On March 31, 2017, and May 20, 2017, the Department notified Petitioner that her request for a food benefit replacement had been denied.

Since Petitioner did not complete the requirements for receiving a food benefit replacement, which included returning the affidavit within 10 days, the Department was required to deny her request as directed by BAM 502.

Petitioner requested an exception to the requirements of BAM 502 due to her physical condition.

Petitioner's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts


the granting of equitable remedies. Michigan Mutual Liability Co. v Baker, 295 Mich 237; 294 NW 168 (1940).

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 request for a food benefit replacement.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
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]