



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: August 30, 2017
MAHS Docket No.: 17-009790
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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, a telephone hearing was held on August 23, 2017, from Lansing, Michigan. Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's eligibility 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. Petitioner was a recipient of FAP benefits as a member of Time Limited Food Assistance (TLFA) program.
2. On January 30, 2017, the Department Caseworker sent Petitioner a Notice of Time Limited Food Assistance Countable Month, MDHHS-5501, that this was first month that he did not meet his hourly participation requirement for TLFA. Department Exhibit 1, pg. a.
3. On February 27, 2017, the Department Caseworker sent Petitioner a Notice of Time Limited Food Assistance Countable Month, MDHHS-5501, that this was

second month that he did not meet his hourly participation requirement for TLFA. Department Exhibit 1, pg. b.

4. On March 17, 2017, the Department Caseworker sent Petitioner a Time Limited Food Assistance Third Countable Month Notice, DHS-142a, that if he does not meet his hourly participation requirement for TLFA of working 20 hours effective April 1, 2017, that his FAP benefits will close. Department Exhibit 1, pg. c.
5. On May 19, 2017, the Department Caseworker sent Petitioner a Notice of Case Action, DHS 1605 that his FAP case was closed effective May 1, 2017, because he has used all 3 months of his TLFA and have failed to become eligible for additional months by failing to participate in Employment, Self-Initiated Community Services or Michigan Works! activities for 80 hours a month. Department Exhibit 1, pgs. d1-d4.
6. On June 9, 2017, Petitioner reapplied for FAP benefits. Department Exhibit 1, pg. e-f.
7. On June 19, 2017, the Department Caseworker sent Petitioner a Verification Checklist, DHS 3503, which was due on June 29, 2017, for Petitioner to verify self-employment income. Department Exhibit 1, pg. g1-h4.
8. On June 26, 2017, the Department received Petitioner's Self-Employment Income and Expense Statement, DHS 431. Department Exhibit 1, pg. i1-i4.
9. On July 6, 2017, the Department Caseworker sent Petitioner a Notice of Case Action, DHS 1605 that his FAP case was denied because he failed to submit self-employment verification. Department Exhibit 1, pg. j1-i3.
10. On July 16, 2017, the Department received a hearing request from Petitioner, contesting the Department's negative action.

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 was a recipient of FAP benefits as a member of Time Limited Food Assistance (TLFA) program. On January 30, 2017, the Department Caseworker sent Petitioner a Notice of Time Limited Food Assistance Countable Month, MDHHS-5501, that this was first month that he did not meet his hourly participation requirement for TLFA. Department Exhibit 1, pg. a. On February 27, 2017, the Department Caseworker sent Petitioner a Notice of Time Limited Food Assistance Countable Month, MDHHS-5501, that this was second month that he did not meet his hourly participation requirement for TLFA. Department Exhibit 1, pg. b. On March 17, 2017, the Department Caseworker sent Petitioner a Time Limited Food Assistance Third Countable Month Notice, DHS-142a, that if he does not meet his hourly participation requirement for TLFA of working 20 hours effective April 1, 2017, that his FAP benefits will close. Department Exhibit 1, pg. c. On May 19, 2017, the Department Caseworker sent Petitioner a Notice of Case Action, DHS 1605 that his FAP case was closed effective May 1, 2017, because he has used all 3 months of his TLFA and have failed to become eligible for additional months by failing to participate in Employment, Self-Initiated Community Services or Michigan Works! activities for 80 hours a month. Department Exhibit 1, pgs. d1-d4.

On June 9, 2017, Petitioner reapplied for FAP benefits. Department Exhibit 1, pg. e-f. On June 19, 2017, the Department Caseworker sent Petitioner a Verification Checklist, DHS 3503, which was due on June 29, 2017, for Petitioner to verify self-employment income. Department Exhibit 1, pg. g1-h4. On June 26, 2017, the Department received Petitioner's Self-Employment Income and Expense Statement, DHS 431. Department Exhibit 1, pg. i1-i4. On July 6, 2017, the Department Caseworker sent Petitioner a Notice of Case Action, DHS 1605 that his FAP case was denied because he failed to submit self-employment verification. Department Exhibit 1, pg. j1-i3. On July 16, 2017, the Department received a hearing request from Petitioner, contesting the Department's negative action. BEM 620, 501, 502, and 504.

During the hearing, the Department Caseworker stated that he told Petitioner each month when he contacted him that as long as he was doing 20 hours a week that he was okay. Petitioner was working on commission and not hourly so sometimes he did not make minimum wage. The Department Caseworker thought it was a glitch in the system why he was getting the notices. After his case closed, the Department Caseworker was informed by his supervisor that Petitioner was not working at least minimum wage for 20 hours, which is why he wasn't making the participation requirements. The notices sent to Petitioner does not state that fact only the hourly participation, which he was making every month. The Department is required to give Petitioner notice as to what requirement he is not making so that he can comply and even his Department Caseworker was not aware of the 20-hour minimum pay requirement. In addition, the Department Caseworker stated that Petitioner did return the self-employment verification timely, but it did not show up in the Electronic Case File (ECF) timely.

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 case for failing the participation requirements for TLFA and when it denied his FAP application submitted on June 9, 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 of initiating a redetermination of Petitioner's eligibility for FAP retroactive to his FAP application dated June 9, 2017, by using the self-employment forms submitted on June 26, 2017. In addition, Petitioner is eligible for FAP benefits from May 1, 2017, through his FAP application date of June 9, 2017, because the Department failed to give proper notice for participation in TLFA program. Petitioner's 3 months of nonparticipation is also to be removed and not counted against him.

Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and issue Petitioner any retroactive benefits she/he may be eligible to receive, if any.



CF/md

Carmen G. Fahie
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]

Petitioner

[REDACTED]