



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 25, 2017
MAHS Docket No.: 17-009795
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 herself. The Department of Health and Human Services (Department) was represented by Hearing Facilitator [REDACTED] [REDACTED] [REDACTED] [REDACTED] also appeared for the Department. Department Exhibit 1, pp. 1-32 was received and admitted.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application for failing to return verifications?

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 5, 2017, Petitioner applied for FAP.
2. On June 5, 2017, an appointment notice and verification checklist was sent to Petitioner.
3. On June 15, 2017, Petitioner returned check stubs.
4. On June 26, 2017, Petitioner submitted a bank statement and settlement agreement.

5. On June 29, 2017, Notice of Case Action was sent to Petitioner stating that FAP benefits were denied for failure to provide verification.
6. On June 29, 2017, the Department sent an email to the trust/annuities department requesting evaluation of settlement agreement.
7. On July 17, 2017, Petitioner requested hearing contesting the denial of her FAP application.

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.

Timeliness of Verifications

FIP, SDA, RCA, Child Development and Care (CDC), FAP

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested.

For CDC, if the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

For CDC, at redetermination, if a signed DHS-1010 or application is received, generate a VCL and allow 10 calendar days for the client to provide the verifications. If the verifications are not returned or are returned as incomplete, two 10 calendar day extensions must be given, sending VCLs after each verification due date. Clients are not required to request the extensions.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications

(fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, **or**
The time period given has elapsed and the client has **not**
made a reasonable effort to provide it. BAM 130

In this case, Petitioner provided all verifications requested of her in a timely manner. Petitioner did not refuse to provide a verification. Therefore, the Department's denial for failing to provide verification was improper and incorrect. BAM 130 In addition, her daughter's structured settlement is likely an excluded asset that did not need to be verified.

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 denied Petitioner's FAP application for failing to return verifications.

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 and reprocess Petitioner's FAP application going back to the date of application.
2. Award FAP benefits if Petitioner is found otherwise eligible.

AM/md



Aaron McClintic
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]