



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: September 12, 2017
MAHS Docket No.: 17-010370
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 September 7, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Assistance Payments Worker, and ██████████ Hearing Facilitator and Eligibility Specialist.

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. Petitioner submitted an application for FAP benefits on ██████████.
2. On ██████████, Petitioner was interviewed relating to her application for FAP benefits.
3. Following the interview, the Department sent a Verification Checklist (VCL) requesting that she provide proof of her income from employment by ██████████
██████████
4. On ██████████, Petitioner sent in three of her daughter's pay statements (Exhibit A, pp. 1-3).

5. On [REDACTED], the Department sent Petitioner a Notice of Case Action which informed her that her application for FAP benefits had been denied (Exhibit B, pp. 1-4).
6. On [REDACTED], 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.

In this case, Petitioner submitted an application for FAP benefits on [REDACTED]. During an interview conducted on [REDACTED], Petitioner informed the Department that her daughter, who was a member of the FAP group, had been formerly employed by [REDACTED] in [REDACTED]. Petitioner testified she informed the Department at that time that her daughter had also been employed at [REDACTED], but the business had shut down on [REDACTED]; and she was no longer employed. The Department testified that Petitioner indicated her daughter had been formerly employed with [REDACTED] but did not mention any employment at [REDACTED].

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7. Petitioner was sent a VCL on [REDACTED], requesting proof of Petitioner's employment income. The Department testified it asked for proof of Petitioner's daughter's income in the VCL as well. However, the VCL clearly indicates that the Department only sought verification of Petitioner's income. The Department also did not request in the VCL that Petitioner submit proof that her daughter was no longer employed. The proofs that were requested were due by [REDACTED].

Petitioner submitted three of her daughter's pay statements for her final three pay periods at [REDACTED] (Exhibit A, pp. 1-3) on [REDACTED]. The pay statements did not contain any identifying information, such as Petitioner's daughter's name, the

Employer's name or pay period dates. Due to the lack of specificity, the Department considered the information insufficient to verify Petitioner's daughter's income. As a result, the Department sent Petitioner a Notice of Case Action on [REDACTED], denying her application for FAP benefits for failing to submit required verifications.

The Department must verify all non-excluded income at application prior to authorizing benefits. BEM 500 (January 2016), p. 13. First, the Department failed to establish that Petitioner's daughter was even employed, prompting the need to verify income. The Department acknowledged that Petitioner stated her daughter was no longer employed with [REDACTED] and that they were not even aware of the employment at [REDACTED]. The Department presented no evidence that Petitioner ever indicated her daughter was employed at the time of application. Therefore, it would be unnecessary for Petitioner to provide proof of her daughter's income that did not even exist. Second, the Department failed to request verification of Petitioner's daughter's income from employment in the VCL (Exhibit C, p. 1). Additionally, the Department argued that they verbally notified Petitioner during the [REDACTED], interview that she needed to submit proof that her daughter was no longer employed with [REDACTED]. Relevant policy states that the Department must tell the client what verification is required and to use the VCL to request information. BEM 130, p. 3. This language mandates that the Department include any verifications that it desires in the VCL. As the Department did not include Petitioner's daughter as an individual that needed to provide verification of income from employment, or lack thereof, the Department cannot use the Petitioner's failure to provide that information as a basis for the denial of FAP benefits. Therefore, the Department failed to act in accordance with policy when denying Petitioner's application for benefits on that basis.

DECISION AND ORDER

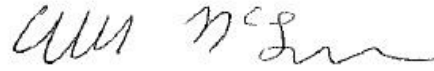
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Petitioner's application for FAP benefits.

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. Reregister and reprocess Petitioner's [REDACTED], application for FAP benefits;
2. If Petitioner is eligible for FAP benefits, issue FAP supplements Petitioner was eligible to receive but did not as a result of denial of the [REDACTED] application; and

3. Notify Petitioner in writing of its decision.



EM/jaf

Ellen McLemore
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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]