



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: April 14, 2017
MAHS Docket No.: 17-003540
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 12, 2017, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Rebecca Johnson, Assistance Payment Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

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 an ongoing recipient of FAP benefits.
2. In connection with a redetermination, the Department sent Petitioner a Verification Checklist (VCL) on December 1, 2016 requesting that she verify earnings by December 12, 2016 through the last 30 days' check stubs or earning statements, an employer statement, or a DHS-38 Verification of Employment form (Exhibit A, pp. 5-6).
3. At the time the VCL was sent to her, Petitioner had earnings as a substitute teacher and an [REDACTED] driver.

4. Petitioner timely submitted an accounts ledger and a DHS-431, self-employment income and expense statement.
5. On January 6, 2017, the Department sent a subsequent VCL requesting the last 30 days' income by January 17, 2017.
6. Petitioner timely provided an October 17, 2016 paystub.
7. On February 28, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP case closed effective December 1, 2016 because verification of missing check stubs was not returned (Exhibit B).
8. On [REDACTED] 2017, the Department received Petitioner request for hearing disputing the closure of her FAP case.

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.

Petitioner requested a hearing disputing the closure of her FAP case. Petitioner's FAP case had a certification period from December 1, 2015 to November 30, 2016. In connection with a redetermination, the Department sent Petitioner the December 1, 2016 VCL requesting verification of income. Department policy provides that earned income must be verified at redetermination. BEM 501 (July 2016), p. 9; BEM 502 (July 2016), p. 6. Because there was evidence that Petitioner had income, the Department properly sought verification of the income in connection with Petitioner's redetermination.

The VCL requested proof of income through 30 days' check stubs or earnings statements, an employer statement, or a DHS-38 Verification of Employment (Exhibit A, pp. 5-6). At the hearing, Petitioner explained that she was self-employed, doing work as a substitute teacher and an [REDACTED] driver. At both jobs, she did not have a regular schedule and decided which assignments she would accept. Payments were made via direct deposits to her bank account based on the assignments she completed. Petitioner testified that, in response to the VCLs sent by the Department, she provided

her worker with a copy of her October 17, 2016 pay stub from her work as a substitute teacher, which was the last pay stub she had received from that work, an accounts ledger, and a DHS-431 self-employment income and expense statement.

The Department must tell the client what verification is required and how to obtain it. BAM 130 (July 2016), p. 3. In this case, the Department requested verification of employment income and did not advise Petitioner what proof was required to verify her self-employment income. The Department was unable to explain how the documents Petitioner provided were insufficient to verify her income. To the contrary, in the Department's hearing summary, Petitioner's worker indicated that the provided documents were sufficient to process Petitioner's FAP case.

Based on the evidence presented, the Department did not act in accordance with Department policy when it closed Petitioner's case for failure to verify.

At the hearing, the Department representative testified that another notice had been sent to Petitioner on April 11, 2016, the day prior to the hearing, notifying her that she was ineligible for FAP benefits as of December 1, 2016 because her net income exceeded the income limit for eligibility. No evidence of this Department action was presented at the hearing to show that the Department had resolved Petitioner's issue on appeal. Further, because Petitioner's hearing request was submitted [REDACTED] 2017 before this April 11, 2017 notice was issued, Petitioner was advised that the closure due to net income was not properly presented for the current hearing. However, Petitioner is advised that she may request a hearing concerning that notice, as well as any notice issued by the Department in response to this Hearing Decision.

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 closed Petitioner's FAP case for failure to verify income.

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 Petitioner's FAP case effective December 1, 2017;
2. Reprocess Petitioner's FAP case for December 1, 2017 ongoing;

3. Issue supplements to Petitioner for any FAP benefits she is eligible to receive but did not from December 1, 2016 ongoing; and
4. Notify Petitioner in writing of its decision after her FAP case is reprocessed in accordance with this Hearing Decision.



ACE/tlf

Alice C. Elkin

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

DHHS Hearings Coordinator – 17 – 1843
BSC4 Hearing Decisions
D. Sweeney
M. Holden
MAHS

Petitioner

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