



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: July 7, 2017
MAHS Docket No.: 17-006043
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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, an in-person hearing was held on June 29, 2017, from Detroit, Michigan. The Petitioner was represented by Petitioner. Petitioner's granddaughter, ██████████ also appeared as a witness on behalf of Petitioner. The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist and ██████████ Family Independence Manager.

ISSUE

Did the Department properly deny Petitioner's application for Family 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. On February 21, 2017, Petitioner applied for FAP benefits.
2. On February 22, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting Petitioner's banking information and shelter expense information.
3. The requested proofs were due by March 6, 2017.

4. The Department did not receive the requested proofs by March 6, 2017 and on March 15, 2017, it sent Petitioner a Notice of Case Action which notified Petitioner that her application for FAP benefits had been denied.
5. On May 3, 2017, 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.

Additionally, verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130 (January 2017), p. 1. In this case, Petitioner submitted an application for FAP benefits on February 21, 2017. On February 22, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting that she provide proof of shelter expense as well as information relating to her assets. The proofs were due by March 6, 2017. The Department indicated that it did not receive the requested information and as such sent Petitioner a Notice of Case Action informing Petitioner that her application had been denied.

Petitioner's granddaughter testified that she reviews her grandmother's mail each weekend and responds accordingly. Respondent's granddaughter further testified that the VCL was not received at Petitioner's address. Respondent's granddaughter confirmed that she received and submitted other documents sent by the Department. Petitioner's granddaughter's testimony indicating that the VCL was not received is acceptable as credible. Petitioner could not have responded to a document that she did not receive. As such, it is found that the Department improperly denied Petitioner's application for FAP benefits.

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 February 18, 2017.

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 February 22, 2017 application for FAP benefits;
2. Issue FAP supplements Petitioner was eligible to receive but did not as a result of the February 22, 2017 application; and
3. Notify Petitioner in writing of its decision.

JM/hw



Jacquelyn A. McClinton
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]