



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 4, 2017
MAHS Docket No.: 17-014217
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 December 4, 2017, from Detroit, Michigan. Petitioner was present and represented herself. Petitioner was present with her daughter-in-law, [REDACTED]. The Department of Health and Human Services (Department) was represented by Sheryl Watkins, Assistance Payments Supervisor, and Tiara Woody, Eligibility Specialist. French Interpreter, [REDACTED], was also present.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit 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. On [REDACTED], 2017, Petitioner applied for FAP benefits (Exhibit D).
2. On October 16, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit case was approved (Exhibit A).
3. On October 17, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FAP benefit case was closed effective November 1, 2017, ongoing, due to her alien status (Exhibit B).

4. On October 23, 2017, Petitioner submitted 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], 2017. The Department initially approved Petitioner's application for FAP benefits and sent a Notice of Case Action informing her of the approval on October 16, 2017. The Department testified the approval was done in error. On October 17, 2017, the Department sent Petitioner a Notice of Case action informing her that her FAP benefit case was being closed effective November 1, 2017, due to her alien status.

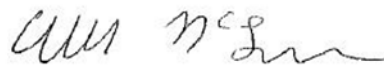
To be eligible for FAP, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (July 2017), pp. 1-2. Acceptable alien status includes qualified military aliens, as well as the spouses and dependent children of qualified military aliens. BEM 225, pp. 6-7. A qualified military alien is an individual on active duty in, or veteran honorably discharged from, the U.S. Armed Forces. BEM 225, p. 6. Qualified alien status also includes any individual that holds the following immigration statuses: (i) permanent resident alien with class code RE, AS, SI or SQ; (ii) a refugee admitted under INA Section 207; (iii) granted asylum under INA Section 208; (iv) Cuban/Haitian entrant; (v) Amerasian under P.L. 100-202; (vi) victims of trafficking under P.L. 106-386 of 2000; and (vii) aliens whose deportation (removal) is being withheld under INA Sections 241(b)(3) or 243(h). BEM 225, p. 7. An alien who has been battered or subjected to extreme cruelty in the United States or whose child or parent has been battered or subjected to extreme cruelty in the United States is also considered to be in acceptable status. BEM 225, p. 8. If an alien does not qualify for FAP under the previous conditions, persons who have lived in the U.S. as a qualified alien for at least five years since the date of their entry will qualify for FAP. BEM 225, p. 11.

There was no evidence presented that Petitioner met one of the immigration statuses that would exempt her from the five-year rule. The Department presented Petitioner's Green Card, which showed her entry date in the U.S. was [REDACTED], 2017 (Exhibit C).

Additionally, Petitioner stated in her application for FAP benefits that her entry date was [REDACTED], 2017. As Petitioner is not an alien with qualified status and has not been in the United States for the minimum five years, the Department acted in accordance with policy when it closed Petitioner FAP benefit case.

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 acted in accordance with Department policy when it closed Petitioner's FAP benefit case. Accordingly, the Department's decision is **AFFIRMED**.



EM/

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

MDHHS-Washtenaw-Hearings

Petitioner



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M Holden
D Sweeney
E McLemore
MAHS