



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 13, 2018
MAHS Docket No.: 18-000234
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 February 21, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator [REDACTED], Lead Worker, Office of Child Support also appeared as a witness.

ISSUE

Did the Department properly deny the Petitioner's application for Family Independence (FIP cash assistance) due to excess income?

Did the Department properly close the Petitioner's Food Assistance (FAP) for failure to complete the redetermination and verification of income?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department sent a Notice of Case Action on November 27, 2017 closing the Petitioner FIP cash assistance and FAP case effective December 1, 2017. Exhibit B.
2. The Department closed the FIP case due to the group's countable income exceeded the income limit for the program. Exhibit B.

3. The FAP case was closed due to failure to verify information requested and due to noncooperation with the Office of Child Support effective December 1, 2017. Exhibit B.
4. On February 13, 2018 the Office of Child Support (OCS) found the Petitioner in cooperation with OCS effective October 30, 2017. This determination by OCS reversed a prior noncooperation finding effective October 30, 2017. Exhibit C.
5. The Petitioner requested a timely hearing on January 9, 2018 protesting 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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, the Department closed Petitioner's benefits for FIP and FAP due to a finding of noncooperation by the OCS. Subsequently, a Cooperation Notice was sent on February 13, 2018 effective October 30, 2017. The Department also closed the FIP for a second reason due to Petitioner's income exceeding the FIP income limit. The Petitioner testified that her FIP group consisted of herself and two children for a group of [REDACTED]. The FIP income limit for a group size of [REDACTED] is [REDACTED]. A pay stub for November 2, 2017 was reviewed at the hearing and indicated for pay date of November 2, 2017, showing a gross pay received of [REDACTED] and was a biweekly check. Based upon the income evidence presented, the Petitioner is not eligible for FIP benefits, because she has income which exceeds the FIP payment standard needs limit.

The Department did not present a verification checklist as part of the hearing packet and the Hearing Facilitator provided information regarding verifications at the hearing.

The first requested verification was sent on November 6, 2017 and the Petitioner returned her verification of rent on November 6, 2017. The Department could not locate any VCL generated as part of the redetermination under review. The Department's bridges system noted that on November 6, 2017 pay stubs were received as was rent.

In addition, the Department did not establish that it properly closed the Petitioner's FAP case due to failure to verify pay stubs as stated in the Notice of closure. Exhibit B. In addition, the Petitioner also returned a New Hire Client Notice sent to her on October 11, 2017 returned in a timely manner. Therefore, based upon the evidence presented the Department did not meet its burden of proof to establish that the FAP closure was correct.

Based upon the evidence presented, the Department improperly closed the Petitioner's FAP case.

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/denied the Petitioner's FIP cash assistance due to excess income.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Petitioner's FAP case due to failure to verify requested pay stubs.

DECISION AND ORDER

Accordingly, the Department's decision is:


AFFIRMED IN PART with respect to the closure of Petitioner's FIP cash assistance;
and

REVERSED IN PART with respect to closure of Petitioner's FAP case due to failure to verify information.

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. The Department shall reinstate the Petitioner's FAP case and process the case as of the December 1, 2017 closure date.
2. The Department, if it finds that Petitioner is eligible for FAP and did not receive the FAP benefits Petitioner was otherwise eligible to receive, shall issue a FAP supplement in accordance with Department policy.
3. The Department shall provide Petitioner written notice of its determination.

LF/tm



Lynn M. Ferris

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

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