



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 2, 2018
MAHS Docket No.: 18-000951
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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, a telephone hearing was held on February 26, 2018, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's December 8, 2017 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. On December 8, 2017, Petitioner applied for FAP benefits.
2. On December 19, 2017, the Department sent Petitioner an Appointment Notice which scheduled a telephone interview with Petitioner on December 28, 2017 at 9:00 a.m.
3. Also, on December 19, 2017, the Department sent Petitioner a Verification Checklist (VCL) which requested that Petitioner return proof of income, banking account and utility expenses.
4. Petitioner failed to appear for the December 28, 2017 telephone interview.
5. Petitioner returned the requested checking account information and at least two paystubs but did not return proof of utility expenses.

6. On January 8, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her application for FAP benefits had been denied for failure to verify requested information.
7. On January 18, 2018, 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, the Department asserted that Petitioner's application for FAP benefits was denied because she missed a required interview and because she failed to verify requested information. Under Department policy, an application for FAP benefits is denied if the client fails to appear for an interview and 30 days has passed since the date of the application. BAM 115 (October 2017), p. 6. In this case, the application date was December 8, 2017. As such, the 30th day after the submission of the application occurred on January 7, 2018. The Department denied Petitioner's application for FAP benefits on January 8, 2018.

Petitioner confirmed that she received the Appointment Notice which scheduled the telephone interview for December 28, 2017. Petitioner testified that she was available for the telephone interview and waited for her assigned worker to call. Petitioner stated that after her assigned worker failed to call, she placed a telephone call to her assigned worker. Petitioner testified that she left a message requesting a return telephone call but did not receive a return call. Petitioner further confirmed that she received the Notice of Missed Interview. Petitioner again testified that she attempted to contact her worker but did not receive a return telephone call from her assigned worker. Petitioner's assigned worker did not appear for the hearing. Accordingly, Petitioner's testimony that she made multiple attempts to complete the telephone interview is accepted as true.

Further, the Department stated that Petitioner's application was denied for failure to return verifications. Petitioner acknowledged receipt of the VCL. Petitioner testified that she submitted her paystubs and checking account information. Petitioner

acknowledged that she did not submit proof of payment for utilities. Petitioner explained that the utilities are not listed in her name and as such, she did not submit the bill.

The Department acknowledged receipt of the paystubs and checking account information. Under Department policy, the Department sends a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130 (April 2017), p. 7.

Had Petitioner's assigned worker returned her telephone calls, she would have been able to advise Petitioner that she could submit the utility bill even if the bill was in someone else's name. It is found that Petitioner made a reasonable attempt to return the verification and also attempted to receive assistance from her assigned worker. As such, it is found that the Department improperly denied Petitioner's application for FAP benefits.

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 December 8, 2017 application for FAP benefits.

DECISION AND ORDER

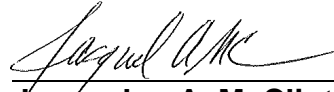
Accordingly, the Department's decision is **REVERSED**.

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 December 8, 2017 application for FAP benefits;
2. If Petitioner was eligible for supplements, issue FAP supplement's Petitioner was eligible for but did not receive relating to the December 8, 2017 application; and

3. Notify Petitioner in writing of its decision.

JAM/tlf



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

Via Email:



Petitioner – Via First-Class Mail:

