



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 2, 2018
MAHS Docket No.: 18-001056
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION
And
ORDER OF DISMISSAL-- HEARING REQUEST NOT TIMELY

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 March 1, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance (FAP) due to failure to return New Hire Client Notice?

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. The Department sent Petitioner a New Hire Client Notice for her daughter, [REDACTED] on September 25, 2017, which was due on October 5, 2017.
Exhibit A
3. At the time of the New Hire Notice based upon Department records, the Petitioner's daughter was still included in Petitioner's FAP group and Petitioner was receiving FAP for her.

4. Petitioner received the New Hire Notice but did not return it.
5. The Department issued a Notice of Case Action on October 13, 2017 which closed the Petitioner's FAP case effective November 1, 2017 for failure to verify wage information. Exhibit C
6. The Petitioner's hearing request was not a timely hearing request, as it was received on January 24, 2017, more than 90 days after the Notice of Case Action date.

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 closed the Petitioner's FAP case on November 1, 2017 when the Petitioner failed to return a New Hire Client Notice sent to her. The Petitioner did not return the form for her daughter's employment even though her daughter was included in her FAP group and Petitioner was receiving FAP benefits for her daughter at the time of the Notice. Although the Petitioner testified that her daughter was not living with her at the time she never reported her daughter as not living in the home to her caseworker.

Information received from any computer data exchange must be reviewed and compared with the recipient's MDHHS record. Any discrepancies must be clarified. BAM 800 (January 2018), p. 6

It is a best practice to resolve information obtained from a State New Hires report within **21 calendar days** from the date the match is reported to the specialist.

Contact the client immediately if the employment has not been previously reported. Request verification by generating a DHS-4635, New Hire Notice, from Bridges.

When a DHS-4635 is requested, Bridges automatically gives the client 10 calendar days to provide verification from the date the forms were requested.

If verifications are not returned by the tenth day, case action will need to be initiated to close the case in Bridges. If the client reapplies, the date the client reapplies determines if State New Hires verification must be returned before processing the new application; BAM 807 (January 2018), p. 4

In addition, it is the clients's responsibility to report changes timely as required by Department policy in BAM 105 which provides:

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change.

Income reporting requirements are limited to the following:

- Earned income:
 - Starting or stopping employment.
 - Changing employers.
 - Change in rate of pay.
 - Change in work hours of more than five hours per week that is expected to continue for more than one month.

Other changes must be reported within 10 days after the client is aware of them. These include, but are not limited to, changes in:

- Persons in the home.
- Marital status.
- Address and shelter cost changes that result from the move.
- Vehicles.
- Assets.
- Child support expenses paid.
- Health or hospital coverage and premiums.
- Child care needs or providers. BAM 105, (January 2018) pps. P 11-12

In this case, the Department's evidence established that Petitioner did not return the New Hire Notice which she received, thus the Department established that the closure of Petitioner's FAP case was proper. In addition, the closure date of November 1, 2017 was also correct based upon Department policy. The Notice of Case Action closing the

FAP benefits was issued October 13, 2017 and the closure date for November 1, 2017 was correct because the the closure properly occurred 12 days after the date of the action taken because timely notice was required based upon BAM 220 reference below.

Bridges automatically sets all negative action effective dates based on the rules for each program and the date the action is processed in the system.

A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, (January 2018), p. 12, emphasis supplied.

TIMELINESS OF HEARING REQUEST

After the hearing was concluded, the record was left open for the Department to provide the undersigned the Notice of Case Action which closed the Petitioner's FAP case. The Department provided the Notice of Case Action to the undersigned via fax at which time the undersigned determined that Petitioner's hearing request was untimely. Exhibit C. The Petitioner's hearing request was filed on January 24, 2018. Clients have 90 calendar days from the date of the Notice of the written Case Action to request a hearing. In this case, Petitioner was required to file her hearing request no later than January 11, 2018 in order for her hearing request to be timely. BAM 600, (January 2018), p. 6. Based upon the evidence the Petitioner's hearing request dated January 24, 2018 must be dismissed.

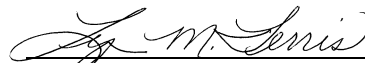
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Petitioner's Hearing request dated January 24, 2018 was untimely and therefore must be dismissed.

DECISION AND ORDER

Accordingly, the Petitioner's Hearing Request dated January 24, 2018 is hereby **DISMISSED AS UNTIMELY.**

IT IS SO ORDERED.

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

[REDACTED]
[REDACTED]
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[REDACTED] [REDACTED]
[REDACTED] Wayne County