



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 8, 2018
MAHS Docket No.: 18-001115
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 March 5, 2018, from Detroit, Michigan. The Petitioner was represented by Petitioner. [REDACTED], also appeared on behalf of Petitioner. [REDACTED] served as a Polish interpreter for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective October 31, 2017 for failure to participate in a telephone interview?

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 a recipient of FAP benefits.
2. Petitioner submitted a completed Redetermination to the Department.
3. Petitioner's required telephone interview was scheduled for October 5, 2017 at 1:00 p.m.
4. Petitioner was available for the October 5, 2017 telephone interview.

5. The Department was unable to read Petitioner's telephone number and therefore did not make contact with Petitioner on October 5, 2017.
6. On October 19, 2017, the Department left Petitioner a voicemail message in an attempt to reschedule the telephone interview.
7. Petitioner returned the telephone call and authorized her niece to speak for her relating to her FAP benefits.
8. The Department was unable to reach Petitioner's niece.
9. Petitioner's FAP benefits closed effective October 31, 2017 for failure to participate in the mandatory telephone interview.
10. On January 17, 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, Petitioner submitted a timely, completed Redetermination. The Department testified that it was unable to read the telephone number provided by Petitioner in the Redetermination. Petitioner testified that she was available for the telephone interview on October 5, 2017 at 1:00 p.m. The Department indicated that it received a clearer copy of the Redetermination and was able to decipher the telephone number. On October 19, 2017, the Department called Petitioner at the telephone number and left a voicemail message.

The Department confirmed that Petitioner called back but was unable to provide the date Petitioner returned the telephone call. During the return call, Petitioner gave the Department permission to contact her niece to complete the telephone interview as Petitioner does not speak English. The Department testified that it unsuccessfully attempted to contact Petitioner's niece. The Department was unable to provide a date in which the attempt was made to contact Petitioner's niece.

When a client misses the required interview, the Department is required to send a Notice of Missed Interview. BAM 210 (October 2017), p. 6. There was no evidence provided at the hearing showing that the notice was ever sent. There was a clear language barrier in this case. The Department was unable to provide any specific dates of attempts of contact for Petitioner's niece. It is unclear whether the Department contacted Petitioner again to advise that it was unable to reach her niece. Accordingly, it is found that the Department improperly closed Petitioner's FAP benefits effective October 31, 2017 for failing to participate in the telephone interview.

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 closed Petitioner's FAP benefits effective October 31, 2017.

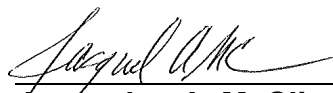
DECISION AND ORDER

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. Redetermine Petitioner's FAP benefits effective October 2017, ongoing;
2. If Petitioner was eligible for supplements, issue FAP supplements Petitioner was eligible for but did not receive effective October 2017, ongoing; 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:

