



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 28, 2018
MAHS Docket No.: 18-002031
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 3/28/18, from [REDACTED] Michigan. The Petitioner appeared and testified. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist and [REDACTED] Assistant Payments Supervisor.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application due to Petitioner failing to verify income and assets?

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 1/17/18 Petitioner applied for FAP benefits.
2. On 1/29/18 the Respondent issued a verification checklist with items necessary for processing Petitioner's application due by 2/8/18. By the due date and based on documents timely submitted based on a review of the case, Petitioner still had outstanding checking account verification. At the same time, submitted pay check stubs showed that Petitioner had a 401K account that had not been disclosed or verified under policy.
3. On 2/12/18 the Respondent denied the FAP application on the grounds that Petitioner failed to return required verifications.

4. On 2/2/0/18 Petitioner filed a hearing request.

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, applicable policy is found in BAM 105, 110, 115, 130; BEM 212, 200, 400, 500 and 501. Specific to the case here is verification policy that requires the Department to have in a beneficiary's file all necessary verifications to establish eligibility prior to issuing welfare benefits. Failure by the Department to ensure that all necessary verifications are in a case file can subject the Department to significant financial penalties by the federal government.

Here, evidence shows that the Department followed its procedure with regard to issuing necessary verification requests along with due dates that complied with Department policy and procedure. The Department argues that it was required to deny Petitioner's application on the grounds that Petitioner failed to return necessary verifications as requested.

Petitioner argues that he returned the verifications. Petitioner further implied that he was not fully aware of the 401K program, and there was only \$ [REDACTED] in the account.

Individuals who received public assistance funds have the burden of proof to establish eligibility. Where each side is equally credible, the burden of proof weighs the evidence against that individual by the trier of fact in determining whether the burden is met. Here, Petitioner has the burden, and, Petitioner had no proof of having delivered the verification. As such, Petitioner cannot prevail.

It is noted that the Department made an alternative argument that even if Petitioner had evidence of having delivered the necessary verification, Petitioner was still be denied on the grounds of having a 401K account that lacked verification.

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's actions were correct and thus, must be upheld.

DECISION AND ORDER

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



JS/nr

Janice Spodarek
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]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]