



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 27, 2018
MAHS Docket No.: 18-002869
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 April 17, 2018, from [REDACTED] Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Family Independence Manager and [REDACTED] [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly determine the Petitioner's eligibility 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. The Petitioner was a recipient of FAP benefits.
2. On January 2, 2018, the Department Caseworker sent the Petitioner a Semi-Annual Contact Report, DHS 1046, which was due back on February 1, 2018. Department Exhibit 1, pgs. 3-4.
3. On February 1, 2018, the Department Caseworker received the DHS 1046 completed and only one check stub. Department Exhibit 1, pgs. 3-4.
4. On February 10, 2018, a potential FAP closure notice was sent out. A copy was not provided for the hearing packet.

5. On February 14, 2018, the Petitioner called asking why her FAP case was closing and was informed that although the DHS 1046 was received the check stubs were missing then sent an email to the Petitioner. The Petitioner was informed that she needed to submit pay stubs for January 18, 2018, February 2, 2018, and February 9, 2018. Department Exhibit 1, pgs. 5-6.
6. On February 22, 2018, the Petitioner called again asking why her FAP case was closing and was informed that although the DHS 1046 was received the check stubs were missing then sent an email to the Petitioner. The Petitioner was informed that she needed to submit pay stubs for January 18, 2018, February 2, 2018, and February 9, 2018. Department Exhibit 1, pg. 6.
7. On March 12, 2018, the Department received a hearing request from the Petitioner contesting the Department's negative action.

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 Petitioner testified credibly that she faxed the required verification from [REDACTED] that is located downstairs on February 22, 2018. It seems like the fax machine at [REDACTED] date is incorrect. The Petitioner submitted written verification that had a [REDACTED] date stamp of February 22, 2018, but fax date stamp was April 17, 2010. After the hearing, the FIM was able to verify that the Petitioner was present in that office on February 22, 2017 and that the fax machine has never show the correct date.

The Petitioner was in the building on the alleged date of February 22, 2018. The Department has a drop box that was just upstairs of the [REDACTED] office, so the Petitioner would have been better served to put a copy of her check stubs in the drop box or submitted them at the front desk because the Department did not receive the fax. However, since the Petitioner can verify that she was in the [REDACTED] office that day and used their fax that always has the incorrect date. She will be given the opportunity to resubmit the required verification to determine continued eligibility for FAP. However, she is put on notice that she should use the drop box or the front desk since she was in the building.

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 did not give the Petitioner an opportunity to verify that she had faxed her verification on February 22, 2018 from [REDACTED].

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 of initiating a redetermination of the Petitioner's eligibility for FAP retroactive to her FAP closure date of April 1, 2018.

Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

Carmen G. Fahie

CF/nr

Carmen G. Fahie
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]