



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 22, 2018
MAHS Docket No.: 18-003827
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 May 21, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Worker and [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

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 FAP recipient.
2. On February 5, 2018, the Department sent Petitioner a redetermination that was due to be completed on March 7, 2018. Petitioner was also scheduled a telephone interview on March 7, 2018.
3. On March 7, 2018, the department sent Petitioner an Appointment Notice informing her that she had a scheduled telephone interview on March 14, 2018 (Exhibit B).
4. On March 14, 2018, the Department sent Petitioner a Notice of Missed interview (Exhibit C).

5. On March 16, 2018, Petitioner submitted a completed redetermination (Exhibit A).
6. On March 26, 2018, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FAP benefit case was closing effective April 1, 2018, ongoing (Exhibit D).
7. On April 3, 2018, Petitioner submitted a request for hearing.

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 request for hearing disputing the Department's decision to close her FAP benefit case, as well as the denial of her FAP replacement request. Petitioner testified that her FAP replacement request was subsequently processed and she received a supplement. As such, Petitioner did not wish to proceed regarding her request for hearing for the FAP replacement. Petitioner did wish to proceed regarding her FAP closure.

On February 5, 2018, the Department sent Petitioner a redetermination packet. The pack was due on March 7, 2018. Petitioner was also scheduled a telephone interview related to the redetermination on March 7, 2018.

The Department must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2017), p. 1. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1. A complete redetermination/renewal is required at least every 12 months. BAM 210, p. 1. For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed, and a new benefit period is certified. BAM 210, p. 1. If a client does not begin the redetermination process, the benefit period will be allowed to expire. BAM 210, p. 1. A telephone interview at redetermination is required before determining ongoing eligibility. BAM 210, p. 6.

Petitioner's worker, who testified on behalf of the Department, stated that she believed she contacted Petitioner for her interview on March 7, 2018. The Department worker testified she could not recall specifically calling Petitioner but believed she was unable to reach her because she rescheduled the interview on March 14, 2018. The Department worker stated that, again, she could not specifically recall calling Petitioner on March 14, 2018, but believes she did because the FAP benefit case was closed for Petitioner's failure to complete the interview. The Department worker could not recall the details of the contact attempts with Petitioner, but instead spoke in general terms as to what she does when contacting clients for interviews. On March 26, 2018, the Department worker entered a note stating, "correction to previous comments: redetermination for medical and food received March 16, 2018. Upon rescheduled appointment, still unable to contact customer." Again, the worker stated she did not recall contacting Petitioner on March 26, 2018, but believed she had because of the note entered on that date. When asked if the note was possibly entered in reference to the rescheduled interview on March 14, 2018, the Department worker stated she was unsure if it was in reference to that date.

Petitioner testified that she did not receive a phone call on March 7, 2018 or March 14, 2018. Petitioner stated she attempted to contact her worker several times around that timeframe but never received a return call.

The Department's witness was unable to conclusively state that she contacted Petitioner for an interview. The witness made presumptions as to her actions based on the documentation that was sent out and what she generally does when completing interviews with clients. It is unclear if the Department's witness actually contacted Petitioner or what occurred when the attempts to contact were made. Therefore, the Department failed to establish that it acted in accordance with policy when it closed Petitioner's FAP benefit case.

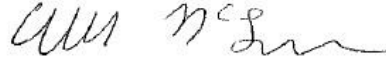
DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP benefit case. 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 eligibility as of April 1, 2018, ongoing;
2. If Petitioner is entitled to additional FAP benefits, issue supplements she was entitled to receive as of April 1, 2018, ongoing; and

3. Notify Petitioner of its decision in writing.



EM/cg

Ellen McLemore
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) 763-0155; 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:

