



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 29, 2018
MAHS Docket No.: 18-004133
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 22, 2018, from Lansing, Michigan. Petitioner represented herself for the hearing. The Department of Health and Human Services (Department) was represented by Rick Trudell, Supervisor; and Shirley Beamon, Assistant Payment Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective April 30, 2018?

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 April 3, 2018, Petitioner applied for FAP benefits and other programs. [Exhibit A, p. 1.]
2. On April 4, 2018, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of self-employment forms, assets forms, and employment. The VCL was sent to Petitioner's reported address of "[REDACTED]." The VCL's were due back by April 16, 2018. [Exhibit A, pp. 7-9.]
3. Petitioner failed to submit the verifications by the due date of April 16, 2018. [Exhibit A, p. 13.]

4. Due to a system error on April 17, 2018, the Department was unable to mail out a Notice of Case Action, DHS-1605, informing Petitioner of her case FAP case closure. [Exhibit A, p. 1.]
5. On April 17, 2018, Petitioner filed a hearing request via e-mail, disputing the Department's action. [Exhibit A, p. 2.]
6. On April 19, 2018, the Department sent Petitioner a Benefit Notice, DHS-176, informing her that her FAP benefits will end effective April 30, 2018, due to her failure to return the requested verifications. The Benefit Notice was mailed to Petitioner's reported address of [REDACTED] [Exhibit A, pp. 10-11.]
7. On May 22, 2018, Petitioner informed the Department that her mailing address was updated to [REDACTED]."

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.

Preliminary matter

In this case, Petitioner filed a hearing request via e-mail in which she protested all of her program benefits. [Exhibit A, p. 2.] For example, Petitioner testified that she disputed her FAP case closure and her State Emergency Relief (SER) application denial. However, the undersigned Administrative Law Judge (ALJ) lacks the jurisdiction to address Petitioner's dispute with her SER application denial, except her FAP benefits. Policy states that all clients have the right to request a hearing. BAM 600 (April 2018), p. 2. The following people have authority to exercise this right by signing a hearing request:

- An adult member of the eligible group; or
- The client's authorized hearing representative (AHR).

BAM 600, p. 2. *Requests for a hearing must be made in writing and signed by one of the persons listed above.* BAM 600, p. 2 (emphasis added). *The request must bear a*

signature. BAM 600, p. 2 (emphasis added). Exception, *for FAP only, a hearing request may be written or oral.* BAM 600, p. 2 (emphasis added).

Based on the above policy, Petitioner failed to submit a signed hearing request in which she disputed her program benefits, such as an SER application denial. As a result, the undersigned lacks the jurisdiction to address her dispute with all her program benefits, except her FAP benefits. See BAM 600, p. 2. Pursuant to the above policy, Petitioner's e-mail disputing her FAP benefits falls within the policy exception when requesting a hearing. BAM 600, p. 2. As such, the undersigned will address Petitioner's FAP case closure below. It should be noted that Petitioner can attempt to file another hearing request in which she disputes her other program benefits, i.e. SER application denial. See BAM 600, pp. 1-6.

FAP benefits

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2018), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (April 2017), p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, assist the client with the verifications but do not grant an extension. BAM 130, p. 7. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. BAM 130, p. 7. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. BAM 130, p. 7. Re-register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing. BAM 130, p. 7.

In the present case, Petitioner applied for FAP benefits and other programs on April 3, 2018. [Exhibit A, p. 1.] On April 4, 2018, the Department sent Petitioner a VCL requesting proof of self-employment forms, assets forms, and employment. [Exhibit A, pp. 7-9.] The VCL was sent to Petitioner's reported address of "[REDACTED]." [Exhibit A, pp. 7-9.] The VCL request was due back by April 16, 2018. [Exhibit A, pp. 7-9.] However, the Department argued that Petitioner failed to submit the verifications by the due date of April 16, 2018. In fact, the Department presented an Electronic Case File (ECF) showing that she did not submit the

documents by the due date. [Exhibit A, p. 13.] As a result, the Department closed Petitioner's FAP benefits effective April 30, 2018, due to her failure to comply with the verification requirements. [Exhibit A, pp. 10-11.]

In response, Petitioner testified that the Department previously had the documents when she submitted them in March of 2018 via e-mail. She testified that she discovered she never received the VCL when communicating with her caseworker via e-mail on or about April 5, 2018. Furthermore, she testified her caseworker e-mailed the VCL to her on or about April 5, 2018. On or about April 6 or 7, 2018, she testified she provided her caseworker the verifications that she was able to via e-mail.

It should be noted that Petitioner appeared to not receive the VCL because her mailing address changed. However, Petitioner acknowledges that she did not notify the Department of her mailing address change until the date of this hearing, May 22, 2018. Based on this information, the undersigned finds that the Department properly sent the VCL dated April 4, 2018, to Petitioner's last known address at the time.

Based on the foregoing information and evidence, the Department acted in accordance with Department policy when it closed Petitioner's FAP benefits effective April 30, 2018.

First, Petitioner claims that the Department already had the requested verifications when she submitted them to her caseworker in March of 2018. However, the undersigned did not find this argument persuasive. When Petitioner applied for benefits in April 2018, policy allows the Department to request verification in order to determine if she is eligible for the requested programs. See BAM 115 (January 2018), pp. 18-19; BAM130, pp. 1-10. It is very possible that Petitioner's eligibility could have changed between the months of March 2018 to April 2018; hence, why the Department will request verification from Petitioner to determine her eligibility.

Second, Petitioner claimed that she submitted the verifications that she was capable of providing on or about April 6 or 7, 2018, which would have been before the VCL due date. However, the undersigned did not find Petitioner's argument persuasive. Petitioner failed to provide any documentation showing that she submitted the verifications prior to the due date (i.e., e-mail correspondence to her caseworker). Instead, the Department presented credible testimony and evidence showing that Petitioner failed to submit the requested documentation before the due date. In fact, the Department presented an ECF showing that Petitioner failed to submit the requested documents prior to the due date. [Exhibit A, p. 13.]


Ultimately, Petitioner must cooperate with the Department by completing all necessary forms to determine her initial and ongoing eligibility for FAP benefits. See BAM 105, p. 9. Because Petitioner failed to provide the requested verifications, the Department acted in accordance with Department policy when it closed her FAP benefits effective April 30, 2018. BAM 105, p. 9; BAM 130, p. 7. Petitioner can reapply for FAP benefits.

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 acted in accordance with Department policy when it closed Petitioner's FAP benefits effective April 30, 2018.

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

EF/nr



Eric J. Feldman
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

DHHS

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI
49507

Kent County DHHS- via electronic mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

