



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 10, 2018
MAHS Docket No.: 18-004423
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 July 9, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close the Petitioner's Food Assistance (FAP) for failure to complete the redetermination?

Did the Department properly deny the Petitioner FIP Cash Assistance application for failure to complete the FAST?

Is the Petitioner's Hearing Request dated May 29, 2018 regarding the denial of her FIP application dated January 26, 2018 a timely hearing request?

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 Department sent a redetermination to the Petitioner for Food Assistance on January 4, 2018, with a due date of February 1, 2018. The Petitioner did not complete the redetermination form. The Petitioner's FAP case closed automatically due to failure to complete the Redetermination. Exhibit 1

2. The Petitioner applied for FIP cash assistance and Child Development and Care benefits on January 26, 2018.
3. The Department sent a Verification Checklist (VCL) dated February 6, 2018 with a due date of February 16, 2018 requesting verification of school attendance.
4. The Department issued a Notice of Case Action dated February 23, 2018 denying the FIP application due to failure to the Petitioner to return proof of school attendance for her minor children. Exhibit 4.
5. On March 9, 2018, the Petitioner applied for FAP and FIP cash assistance. Exhibit 5.
6. On March 12, 2018, the Department sent the Petitioner a FAST Mandatory Notice advising Petitioner that the FAST (Family Automated Screening Tool) must be completed within 30 days of the notice and instructed that the FAST could be completed online. The Petitioner did not complete the FAST. Exhibit 6.
7. The Department sent the Petitioner a Path Appointment Notice to attend Path orientation on March 19, 2018 at 8:30a.m. Exhibit 7.
8. On May 22, 2018, the Petitioner provided a letter from her minor son's therapist seeking a deferral from Path due to her son's mental health problems. The Path program found the letter from her son's therapist insufficient for a deferral.
9. The Petitioner completed a Medical Needs Form for deferral from the Path Program date stamped received on March 29, 2018. Exhibit 7A.
10. The Petitioner attended the Path orientation on March 19, 2018 and did not complete the 21 day AEP period for Path attendance for weeks 1-3. Exhibit 8
11. The Department issued a Notice of Case Action on April 13, 2018 denying the Petitioner's FIP application due to Petitioner's failure to complete the Mandatory FAST within 30 days.
12. The Petitioner requested a hearing on received on April 27, 2018 requesting a hearing regarding the denial of her FIP application (January 26, 2018), and FAP closure for February, 2018 and the March 9, 2018 FIP application denial on April 13, 2018 for failure to complete the FAST.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

The first issue which must be addressed is whether the Petitioner's hearing request dated May 29, 2018 was timely as regards the denial of Petitioner's FIP cash assistance application dated January 26, 2018 and denied by the Department on February 23, 2018.

Unfortunately the issue regarding the timeliness of Petitioner's hearing request was not discovered until after the hearing was conducted and was not addressed at the hearing, however, whether the hearing was timely requested must be addressed because if untimely, the undersigned has no jurisdiction to review the matter.

The Bridges Administrative Manual (BAM) 600 (August 2018), p. 4, provides in relevant part as follows:

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days;

However, Petitioner did not file a request for hearing to contest the Department's action until May 29, 2018 which was more than 90 days after the Notice of case action dated February 23, 2018. Petitioner's hearing request was, therefore, not timely filed within ninety days of the Notice of Case Action and therefore is required to be dismissed lack of jurisdiction to hear the request. BAM 600, p 6.

After completion of the hearing a packet of information was received from the Petitioner via fax which could not be considered by the undersigned, as the hearing had been concluded and the record was closed. During the hearing, the Petitioner did not mention the fax materials and thus the undersigned was unaware of the materials until after the hearing was concluded. The Notice of Hearing sent to the Petitioner in this case by MAHS advised the Petitioner that "All documents that a Petitioner would like to

be part of the hearing are to be submitted to MAHS **at least 7 days prior to the hearing date.**" The documents were faxed to MAHS on the hearing date July 9, 2018.

As regards the Petitioner's issue regarding the whether the closure of her FAP benefits was correct due to failure to complete the redetermination, Department policy provides:

A complete redetermination/renewal is required at least every 12 months.
Bridges sets the redetermination/renewal date according to benefit periods;

FAP Benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. If the client does not begin the redetermination process, allow the benefit period to expire. The redetermination process begins when the client files a DHS 1010 Redetermination. BAM 210, (January 2018), pp. 1 and 3.

Once the Department received the Petitioner's March 9, 2018 application for FAP benefits it was required to process the new application and approve FAP benefits upon receipt of any verifications which were due, if any, thus, based upon the evidence the Department correctly provided FAP benefits based upon the new application as of March 9, 2018. Because the redetermination was never completed and the FAP case closed the Petitioner was required to complete a new application. BAM 210, p. 22.

The Petitioner also seeks review of whether the Department properly denied the Petitioner's March 9, 2018 FIP cash assistance application due to failure to complete a FAST within 30 days of the FAST Mandatory Notice dated March 12, 2018. The Petitioner completed the FAST on April 13, 2018 after the expiration of the 30 days deadline of April 12, 2018. The Petitioner testified that on April 4, 2018 the Department advised her that her FIP cash assistance application would be denied. The Petitioner then determined not to complete the FAST because the application would be denied anyway. Unfortunately, the Petitioner's failure to complete the FAST required that her FIP application be denied regardless of whether other grounds existed to deny the application. While the Department after receipt of the March 29, 2018 Medical Needs Form should have processed the Medical Needs form to the Disability Determination Service for consideration of a deferral, the failure to do so was harmless error because the Petitioner failed to complete the FAST. BEM 228 reiterates what is stated on the FAST Mandatory Notice:

The WEIs (work eligible individual) failure to submit the FAST within 30 days of the notice date is failure to meet eligibility requirements. A task/reminder is sent to the specialist to deny the pending application for FIP. BAM 228 (July 2018) p. 19.

The Petitioner is entitled to reapply for FIP cash assistance at any time and seek a deferral if grounds for deferral remain.

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 the Petitioner's FAP case for failure to complete the redetermination, correctly approved the Petitioner for FAP based upon the March 9, 2018 FAP application date, and correctly denied the Petitioner March 9, 2018 FIP cash assistance application for failure to complete the FAST.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, finds that the Petitioner's hearing request dated May 29, 2018 was untimely as regards the denial of Petitioner's FIP cash assistance application dated January 26, 2018 and denied by the Department on February 23, 2018 notice of case action as the hearing request was not filed within 90 days of February 23, 2018.

DECISION AND ORDER

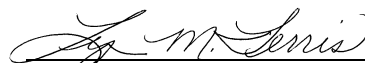
Accordingly, the Department's decisions are regarding closure of FAP benefits for failure to complete the redetermination and denial of the FIP cash assistance application dated March 9, 2018 for failure to complete the FAST are hereby,

AFFIRMED.

The Petitioner's hearing request filed on May 29, 2018 regarding the Department's denial of Petitioner's January 26, 2018 FIP Cash Assistance application due to failure to verify information is hereby DISMISSED due to lack of jurisdiction based upon the untimeliness of the hearing request.

IT IS SO ORDERED.

LF/tm



Lynn M. Ferris

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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc:

[REDACTED]
[REDACTED]
[REDACTED]