



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 6, 2018
MAHS Docket No.: 18-005240
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 June 28, 2018, from Detroit, Michigan. The Petitioner was represented by herself. [REDACTED] and [REDACTED] served as [REDACTED] interpreters for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective August 1, 2017?

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 July 10, 2017, Petitioner applied for FAP benefits.
2. On July 12, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting that she provide a copy of her Permanent Resident Card and proof of her pension income.
3. On July 17, 2017, Petitioner sent a copy of her Permanent Resident Card together with a letter stating that she was unsure if she would be able to obtain proof of her pension income.

4. On May 10, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her FAP benefits would close effective August 1, 2017.
5. On May 21, 2018, Petitioner filed a Request for Hearing disputing the Department's actions.

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.

Additionally, verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. The Department is to obtain verification when:

- Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for Medicaid Assistance (MA).
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. BAM 130 (April 2017), p. 1.

In this case, Petitioner applied for FAP benefits on July 10, 2017. The Department sent Petitioner a VCL which requested a copy of her permanent resident card and proof of her pension payments. Prior to the VCL due date, Petitioner sent a copy of her Permanent Resident Card and a letter stating that she was having difficulty submitting the pension information as she was required to appear in person in [REDACTED] to obtain the pension information. Petitioner testified that she was unable to return to [REDACTED] prior to May 2018.

The Department testified that it expedited Petitioner's FAP benefits and failed to follow up once the pension information was not received. The Department confirmed that it

continued to provide Petitioner with FAP benefits until it realized the error. On May 10, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her FAP benefits would close effective August 1, 2017.

According to Department policy, if neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, the Department is to use its best judgment. BAM 130, p. 3. In this case, neither the client or Department can obtain the verification as it related to the pension information. As such, the Department is required to use the best information or its best judgment. At the hearing, the Department conceded that the best information they had at the time relating to the pension income was Petitioner's statements in her application.

Further, the Department is required to send 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.

In this case, Petitioner made a reasonable effort to obtain the requested information. Petitioner provided her Permanent Resident Card and sent correspondence to the Department stating that because she was required to appear in person, she was unsure if she would be able to do so. Therefore, it is found that the Department improperly closed Petitioner's FAP benefits effective August 1, 2017.

It should be noted that the Notice of Case Action stated that Petitioner's FAP case would close effective August 1, 2017. Petitioner's benefits did not close in August 2017 and appears to have remained open at least until May 2018.

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 issued the May 10, 2018 Notice of Case Action closing Petitioner's FAP benefits effective August 1, 2017.

DECISION AND ORDER

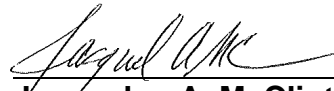
Accordingly, the Department's decision is **REVERSED**.

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:

1. Reinstate Petitioner's FAP benefits effective August 1, 2017;

2. If Petitioner was eligible to receive supplements, issue FAP supplements Petitioner may have been eligible to receive but did not effective August 1, 2017; and
3. Notify Petitioner in writing of its decision.

JAM/tif



Jacquelyn A. McClinton
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:

