



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: July 30, 2018
MAHS Docket No.: 18-005482
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 25, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Patrise Snyder, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's request for a replacement of 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. Petitioner was an ongoing FAP recipient.
2. On May 7, 2018, Petitioner called MDHHS to report that she had a power outage and experienced a loss of food. MDHHS subsequently mailed Petitioner a Food Replacement Affidavit.
3. On May 17, 2018, MDHHS received a Food Replacement Affidavit signed by Petitioner which requested a replacement of FAP benefits due to a power outage from May 4, 2018, through May 6, 2018. (Exhibit A, p. 2)

4. On May 18, 2018, MDHHS received a letter from Petitioner's energy service provider which stated that Petitioner had a power outage from May 4, 2018, through May 6, 2018. (Exhibit A, p. 3)
5. On May 22, 2018, MDHHS denied Petitioner's request for FAP benefit replacement because Petitioner's request was not received by MDHHS within 10 days of Petitioner's power outage. (Exhibit A, pp. 4-5)
6. On June 1, 2018, Petitioner requested a hearing to dispute the denial of FAP benefit replacement.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of FAP benefit replacement following a power outage. A Benefit Notice verified that MDHHS denied Petitioner's request for failing to submit an affidavit to MDHHS within 10 days of the power outage.

FAP recipients may be issued a replacement of benefits when food purchased with FAP benefits has been destroyed in a domestic misfortune or disaster and it is reported timely. Replacements and reauthorizations are processed **only** if the client reports the loss timely. Timely means within 10 days if the loss is due to domestic misfortune or disaster. MDHHS specialists have 10 days from the request, or two working days after receipt of a signed Food Replacement Affidavit (DHS-601), whichever is later, to process. BAM 502 (July 2017), p. 1.

MDHHS interpreted their policy to require Petitioner to submit a DHS-601 within 10 days from the end of Petitioner's power outage. Under MDHHS' interpretation of policy, Petitioner was one day late as MDHHS received Petitioner's DHS-601 on the 11th day after the end of Petitioner's power outage.

Notably, MDHHS policy could have stated that clients have 10 days to submit a DHS-601; it does not. MDHHS policy states that clients have 10 days to **report** a loss of food due to domestic misfortune or disaster. A "report" requires a client only to inform MDHHS. Petitioner reported her loss of food one day after the end of her power outage. Thus, Petitioner fulfilled her requirement to report a loss of food to MDHHS within 10 days. Accordingly, it is found that MDHHS improperly denied Petitioner's request for FAP replacement benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's request for food replacement. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's Food Replacement Affidavit subject to the finding that Petitioner timely reported her loss of food; and
- (2) Initiate a supplement of FAP replacement benefits, if any.

The actions taken by MDHHS are **REVERSED**.

CG/



Christian Gardocki

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

Denise McCoggle
MDHHS-Wayne-15-Hearings

Petitioner

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