



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: July 2, 2018
MAHS Docket No.: 18-005368
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 27, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Diane Dubin, Financial Independence Manager (FIM). Department Exhibit 1, pp.1-12 was received and admitted.

ISSUE

Did the Department properly deny Petitioner's request for a Food Assistance Program (FAP) supplement due to an electric power outage?

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's electrical power was out due to a downed power line from April 15, 2018, through April 20, 2018.
2. Petitioner reported that her power was out and that she lost food due to the outage on April 18, 2018.
3. On April 18, 2018, was sent a Food Replacement Affidavit and instructed to return it within 10 days.

4. Petitioner was told by her worker to submit the Food Replacement Affidavit and a letter from DTE at the same time.
5. On or about May 1, 2018, Petitioner submitted the Food Replacement Affidavit and a letter from DTE Energy dated April 27, 2018, confirming that her power was out.
6. On May 16, 2018, a Benefit Notice was sent to Petitioner informing her that “not eligible for food replacement/information not returned timely”.
7. On May 22, 2018, Petitioner requested hearing disputing the denial of her request for FAP supplement.

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.

Food Assistance recipients may be issued a replacement of Food Assistance Program (FAP) benefits when food purchased with FAP benefits has been destroyed in a domestic misfortune or disaster and reported timely. See BAM 401E, Electronic Benefit Transfer Issuance System, for policy regarding replacement of Bridge cards.

Limits

There is **no** limit to the number of replacements for food purchased with food assistance benefits and destroyed in a domestic misfortune or disaster.

Client Responsibilities

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. However, if day 10 falls on a weekend or holiday and it is reported on the next workday, it is still considered timely. BAM 502

In this case, Petitioner’s power was out from April 15 through April 20, 2018 and she lost food as a result. Petitioner reported her loss to the Department on April 18, 2018, which was within 10 days of the domestic misfortune. Nothing in BAM 502 requires that supporting documentation has to be submitted within 10 days of the loss of food. A Food Replacement Affidavit was generated on April 18, 2018 and given to Petitioner this confirms that Petitioner reported her loss. Petitioner credibly testified that her

worker told her to submit the food replacement affidavit and a letter from DTE together. Petitioner credibly testified that she received the letter from DTE dated April 27, 2018, via mail on May 1, 2018, and submitted the letter and the food replacement affidavit within a few days. Petitioner submitted the supporting documentation in a timely manner, therefore the denial for failing to provide requested information was improper and incorrect. BAM 502

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 did not act in accordance with Department policy when it denied Petitioner's request for FAP supplement due to power outage.


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. Process Petitioner's request for FAP supplement due to power outage.
2. Issue a supplement if Petitioner is found otherwise eligible.

AM/bb



Aaron McClintic
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

Lori Duda
30755 Montpelier Drive
Madison Heights, MI 48071

Oakland County (District 2), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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