



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: March 28, 2018
MAHS Docket No.: 18-002084
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 3/28/18, from Lansing, Michigan. The Petitioner appeared and testified. The Department of Health and Human Services (Department) was represented by Cerlibrity Good, Assistance Payments Worker (APW).

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) on the grounds that Petitioner failed to return requested verification?

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 1/23/18 the Department issued a verification checklist to Petitioner for her FAP case redetermination, due 2/2/18.
2. On 2/2/18 all necessary verifications were not received.
3. On 2/6/18 the Department issued a notice that Petitioner's FAP benefits are closed effective 2/1/18 and ongoing on the grounds that Petitioner failed to file requested verifications.
4. On 2/20/18 Petitioner filed a hearing request.

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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Specific policy to the facts here is found in BAM 115, and 130. Specific to the case here is verification policy that requires the Department to have in a beneficiary's file all necessary verifications to establish eligibility and ongoing eligibility prior to issuing welfare benefits. Failure by the Department to ensure that all necessary verifications are in a case file can subject the Department to significant financial penalties by the federal government.

Here, evidence shows that the Department followed its procedure with regard to issuing necessary verification requests along with due dates that complied with Department policy and procedure. The Department argues that it was required to deny Petitioner's application on the grounds that Petitioner failed to return necessary verifications as requested.

Petitioner argues that she in fact returned the verifications and uploaded the verifications along with others that were received.

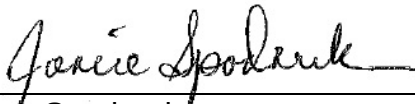
Individuals who received public assistance funds have the burden of proof to establish eligibility. Where each side is equally credible, the burden of proof must be weighed against the individual who has that burden. Here, Petitioner has the burden, and, Petitioner had no proof of having delivered the verification. As such, Petitioner cannot prevail.

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's actions were correct and thus, must be upheld.

DECISION AND ORDER

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

JS/nr



Janice Spodarek
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) 335-6088; 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

Linda Gooden
25620 W. 8 Mile Rd
Southfield, MI
48033

Oakland 3 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

M. Best- via electronic mail

EQAD- via electronic mail

Petitioner

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