



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 22, 2018
MAHS Docket No.: 18-003821
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 May 21, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Shanna Ward, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

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 [REDACTED], 2018, Petitioner submitted an expedited application for FAP benefits (Exhibit A).
2. On February 28, 2018, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's self-employment income (Exhibit B).
3. On March 8, 2018, the Department sent Petitioner a Notice of Case Action informing her that her application for FAP benefits was approved, pending verification (Exhibit D).
4. On March 9, 2018, Petitioner submitted Self-Employment Income and Expense Statements (Exhibit E).

5. On March 12, 2018, the Department emailed Petitioner and requested additional verification of her self-employment income (Exhibit G).
6. On March 27, 2018, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FAP benefit case was closing effective April 1, 2018, ongoing for her failure to submit the required verifications (Exhibit F).
7. On April 5, 2018, Petitioner submitted 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.

In this case, Petitioner submitted an expedited application for FAP benefits on [REDACTED], 2018. In the application, Petitioner indicated she was self-employed. On February 28, 2018, the Department sent Petitioner a VCL requesting verification of her self-employment income. Proofs were due on March 12, 2018.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a 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.

On March 9, 2018, Petitioner submitted Self-Employment Income and Expense Statements. On March 12, 2018, Petitioner's caseworker contacted her via email and informed her that she needed verification of the self-employment expenses. Alternatively, Petitioner could also submit her 2017 tax return. Petitioner's caseworker did not provide her with a due date for the documentation. The Department had not received the additional self-employment verification by March 27, 2018, and as a result, a notice was sent closing her FAP benefit case.

Petitioner testified she was never given a due date to provide the additional verifications. Petitioner testified that she assumed she had until April 2018, when she received her 2017 tax return. Petitioner testified that she submitted her 2017 tax return as soon as she received the document (Exhibit H).

The Department did not send an additional VCL requesting the self-employment income documentation. The Department also did not provide Petitioner with a due date for the requested documents. Therefore, the Department failed to follow policy when requesting the verifications. Thus, the Department failed to follow policy when it closed Petitioner's FAP benefit case.

DECISION AND ORDER

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 policy when it closed Petitioner's FAP benefit case.

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. Redetermine Petitioner's FAP eligibility as of April 1, 2018, ongoing;
2. If Petitioner is entitled to FAP benefits, issue supplements she is entitled to received but did not as of April 1, 2018, ongoing; and
3. Notify Petitioner of its FAP decision in writing.

EM/cg



Ellen McLemore
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:

MDHHS-Ingham-Hearings
M. Holden
D. Sweeney
BSC2- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

