



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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Date Mailed: August 23, 2018
MAHS Docket No.: 18-006751
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: John Markey

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 August 1, 2018, from Lansing, Michigan. Petitioner was represented by his father, ██████████, and Support Coordinator ██████████. The Department of Health and Human Services (Department) was represented by Crystal Cusic-Spencer, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits based on the information it had at the time?

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 ██████████, 2018, Petitioner applied for FAP benefits.
2. On the Application, Petitioner indicated that he had ██████████ of total income and \$450.00 in housing expenses.
3. On June 5, 2018, the Department sent Petitioner a Notice of Case Action denying FAP benefits for May of 2018 and awarding \$15.00 per month from June of 2018 through May of 2019.

4. The Notice of Case Action indicated that Petitioner had [REDACTED] of earned income and [REDACTED] in unearned income.
5. The Notice of Case Action did not include a shelter expense deduction.
6. On June 20, 2018, Petitioner requested a hearing.

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.

At the hearing, Petitioner argued that the Department failed to consider his housing expenses in calculating his FAP benefit amount. The Department contended that Petitioner did not timely verify the alleged housing expenses. BAM 130 (April 1, 2017), pp. 1-10 describes the verification process.

Timeliness of Verifications

FIP, SDA, RCA, Child Development and Care (CDC), FAP

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification that is requested.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date.

Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day.

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.

In this case, the Department refused to consider Petitioner's shelter expenses because Petitioner allegedly failed to return a Verification Checklist that was sent on May 9, 2018. Shortly thereafter, the Department sent a negative action notice informing Petitioner that it did not consider his shelter expenses. However, the record in this matter does not include a copy of the Verification Checklist. Without the Verification Checklist containing instructions and a deadline for compliance, it is impossible to conclude that Petitioner failed to return the Verification Checklist in a timely manner. The record shows that the Department improperly found Petitioner failed to verify his shelter expenses.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FAP application for failing to return verifications.

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. Reprocess Petitioner's FAP application back to the date of application and issue Petitioner a Verification Checklist for shelter expenses;
2. If Petitioner is found eligible, award Petitioner FAP benefits; and
3. Notify Petitioner in writing of its decision.

JM/dh



John Markey
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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