



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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Date Mailed: September 11, 2018
MAHS Docket No.: 18-007117
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 21, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. ██████████ also appeared on behalf of Petitioner. The Department of Health and Human Services (Department) was represented by Gwendolyn Manning, Family Independence Specialist. During the hearing, four multi-page documents were offered and admitted as Exhibit A through Exhibit D.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case, effective July 1, 2018 for allegedly failing to provide requested verifications?

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 is an ongoing FAP recipient.
2. On May 4, 2018, the Department issued to Petitioner a Redetermination in order to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Petitioner was required to return the completed Redetermination by June 1, 2018. Exhibit A, pp. 1-8.

3. On June 1, 2018, Petitioner returned to the Department the completed Redetermination. Exhibit A, pp. 1-8.
4. On June 18, 2018, the Department issued to Petitioner a Verification Checklist requesting verification of wages of two FAP group members, Petitioner and [REDACTED]. The verifications were due by June 28, 2018. Exhibit B, pp. 1-2.
5. On June 27, 2018, Petitioner provided information to the Department regarding her wages and [REDACTED]'s wages. Exhibit C, pp. 1-9.
6. On July 3, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was being closed as a result of the Department's determination that the verifications returned with respect to [REDACTED]'s wages were insufficient. Exhibit D, pp. 1-2.
7. On July 17, 2018, Petitioner submitted a request for hearing challenging the Department's closure of Petitioner's FAP case.

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 objects to the Department's decision to close her FAP case due to an alleged failure to provide requested verifications. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, page 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, 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.

The Department's June 18, 2018, Verification Checklist requested wage information for Petitioner and [REDACTED]. The requested verifications had to be received by the Department by June 28, 2018. On June 27, 2018, Petitioner provided to the Department wage information for herself and for [REDACTED]. Upon reviewing the documents submitted by Petitioner, the Department deemed them to be insufficient with respect to [REDACTED]'s wages and issued a negative case action, closing Petitioner's FAP case effective July 1, 2018. At no point before closing Petitioner's FAP case did the Department send out another Verification Checklist that specifically identified why the timely submission by Petitioner was insufficient or incomplete.

Petitioner responded in a timely and reasonable manner to the Verification Checklist sent on June 18, 2018. Despite making a reasonable good faith effort to provide what was asked for, the Department deemed Petitioner's submission insufficient and sent a negative case action based on Petitioner's failure to provide what the Department requested. The Department may only send negative case action where an individual indicates a refusal to provide verification or the time limit for providing the verification has passed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. Petitioner never indicated an unwillingness to provide the information, and certainly, timely providing the vast majority of what was asked for but not quite providing enough qualifies as a reasonable effort to provide the information. As neither of the conditions for sending a negative case action were present, the Department was precluded from sending a negative case action. This was simply a case where the information concerning an eligibility factor (income) was incomplete and needed further verification pursuant to the verification policy, which requires the sending of a Verification Checklist. The Department instead improperly closed Petitioner's FAP case. Thus, the Department violated policy by sending the negative action notice and closing Petitioner's FAP case.

DECISION AND ORDER

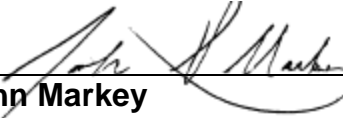
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case for Petitioner's alleged failure to submit required verifications.

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. Properly determine Petitioner's eligibility for FAP benefits as of July 1, 2018;
2. Issue any verifications to Petitioner that may still be needed and ensure that the requests are clear as to what is being requested;
3. If Petitioner is eligible for additional FAP benefits, issue FAP supplements Petitioner was eligible to receive from July 1, 2018, but did not as a result of the Department's improper closure of her FAP case; and
4. 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

Richard Latimore
4733 Conner
Detroit, MI 48215

Wayne County (District 57), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]