



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: August 23, 2018
MAHS Docket No.: 18-007165
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 15, 2018, from Lansing, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator. During the hearing, one exhibit consisting of 17 pages was admitted as Exhibit A, pages 1-17.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for failing to timely return income 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 was an ongoing recipient of FAP benefits.
2. On April 4, 2018, the Department issued to Petitioner a Redetermination, Form 1010, that required Petitioner to update any information affecting eligibility for FAP benefits. The Redetermination indicated that it was due back by May 1, 2018.
3. On April 23, 2018, Petitioner's completed Redetermination form was received by the Department.

4. Based on the answers provided in the Redetermination, the Department issued a May 25, 2018, Verification Checklist to Petitioner regarding Petitioner's employment with [REDACTED] LLC. The Verification Checklist required Petitioner to provide the Department with verification of all income and informed Petitioner that the responses were due by June 4, 2018.
5. On June 4, 2018, Petitioner provided to the Department all the information requested in the May 25, 2018 Verification Checklist.
6. On June 29, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his case was being closed effective August 1, 2018, for failing to provide verifications of his income.
7. On July 10, 2018, Petitioner submitted a hearing request objecting to the Department's decision to close his FAP benefits 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.

The Department closed Petitioner's FAP case for failing to verify income. BAM 130 (April 1, 2017) describes the process for verifications.

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, Petitioner was required to return the income verification by June 4, 2018. Contained within the record is a verification showing income and employment with [REDACTED], LLC that was received by the Department on June 4, 2018. Thus, the evidence on the record shows that Petitioner provided all requested verifications prior to the deadline or at the very least has made a reasonable effort do so. Therefore, the Department failed to meet its burden to establish that Petitioner failed to return verifications. BAM 130.

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 failing to return verifications.

DECISION AND ORDER

Accordingly, the Department's decision **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. Re-determine the FAP monthly allotment taking into consideration the income information from the verifications submitted by Petitioner, in accordance with Department policy.
2. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits he may thereafter be due.
3. Issue written notice of any case action(s) in accordance with Department policy.



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

Tara Roland 82-17
8655 Greenfield
Detroit, MI 48228

Wayne County (District 17), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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