



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

Date Mailed: September 11, 2018
MAHS Docket No.: 18-007497
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 23, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator. During the hearing, 12 pages of documents were offered and admitted as Exhibit A, pp. 1-12.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case as a result of Petitioner's alleged failure to participate in or reschedule a scheduled Redetermination interview?

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 FAP recipient.
2. On May 4, 2018, the Department issued to Petitioner a Redetermination in order to gather relevant information regarding ongoing eligibility for FAP benefits. Petitioner was required to return the completed Redetermination by June 4, 2018. The Redetermination further indicated that Petitioner had a scheduled telephone interview on June 4, 2018, at 8:30 am. Petitioner was informed that if she could not make the interview, she needed to contact the Department beforehand to

reschedule. The document further told Petitioner that failure to return the completed Redetermination or attend the interview could result in her benefits being expired, cancelled, or reduced. Exhibit A, pp. 3-10.

3. Petitioner did not receive the Redetermination and was unaware of either the Redetermination or the scheduled interview.
4. After Petitioner failed to participate in the Redetermination interview, the Department issued to Petitioner on June 4, 2018, a Notice of Missed Interview. The notice informed Petitioner that she missed her interview and stated the following: "It is now your responsibility to reschedule the interview before 06/30/2018 or your application/redetermination will be denied. To schedule your interview, please contact your specialist." The notice then provided contact information for a specialist named L. Davidson. Exhibit A, p. 12.
5. Petitioner received the Notice of Missed Interview within a couple days after it was issued. On or about June 8, 2018, Petitioner called L. Davidson to reschedule the Redetermination interview. On June 11, 2018, Petitioner sent an email to L. Davidson seeking to reschedule the Redetermination interview. Neither the phone call nor the email were returned.
6. The Department closed Petitioner's FAP case, effective July 1, 2018, as a result of Petitioner's alleged failure to cooperate with the Redetermination process.
7. On [REDACTED], 2018, Petitioner requested a hearing challenging the Department's closure of her 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's FAP case was due for redetermination as her benefit period was coming to an end on June 30, 2018. Accordingly, the Department sent to Petitioner a Redetermination form on May 4, 2018, with a due date of June 4, 2018. The Redetermination informed Petitioner that she had a Redetermination interview on June 4, 2018, at 8:30 am. It further informed her that failure to return the completed

Redetermination or participate in the Redetermination interview could result in her FAP case closing. Petitioner did not receive the Redetermination forms mailed on May 4, 2018.

As Petitioner did not receive the Redetermination, she neither returned the completed forms nor was aware of the Redetermination interview, in which she did not participate. The Department then sent out a Notice of Missed Interview informing Petitioner that she missed the interview and giving her instructions on how to avoid her case being closed at the end of the June. Petitioner made numerous attempts to follow those instructions by reaching out to L. Davidson by both phone and email before the end of June, but L. Davidson failed to return any of Petitioner's calls or emails. Because Petitioner's Redetermination process was not completed in a timely manner, the Department closed Petitioner's FAP case.

Periodically, the Department must redetermine or renew a client's eligibility for FAP benefits by the end of each benefit period. BAM 210 (January 2018), pp. 1, 3. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. If a redetermination is not completed and a new benefit period certified, FAP benefits stop at the end of the benefit period. BAM 210, p. 3. Part of the redetermination process is an interview. BAM 210, p. 5. If a client misses the interview, the Department is required to send a Notice of Missed Interview. BAM 210, pp. 6-7. If the client then fails to reschedule and participate in the interview by the end of the month, the group loses its right to uninterrupted FAP benefits. BAM 210, p. 21.

Petitioner's benefit period was set to end, so the Department timely initiated the Redetermination process. Petitioner did not receive the information and only found out about it when she received the Notice of Missed Interview. Immediately, Petitioner began reaching out to the Department by contacting L. Davidson by both phone and email, as instructed on the Notice of Missed Interview. L. Davidson failed to return her calls or emails. The Department representative testified that by reaching out to L. Davidson multiple times within the month of June of 2018 in order to reschedule the Redetermination interview, Petitioner's case was wrongly closed for failing to cooperate with the Redetermination process.

Petitioner followed the instructions she received, but her case was closed for failing to participate in the Redetermination process. However, that failure was not her fault. Rather, it was caused by the Department's failure to follow policy regarding client contacts. In closing Petitioner's FAP case, the Department failed to act in accordance with Department policy.

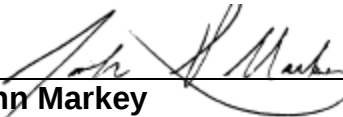
DECISION AND ORDER

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 act in accordance with Department policy when it closed Petitioner's FAP case.

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. Reinstate Petitioner's FAP case, effective July 1, 2018;
2. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits she may be due; and
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

Susan Noel
26355 Michigan Ave.
Inkster, MI 48141

Wayne County (District 19), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
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