



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: September 5, 2018
MAHS Docket No.: 18-007764
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 30, 2018, from Lansing, Michigan. Petitioner appeared along with [REDACTED], her son, who served as a Bengali interpreter. The Department of Health and Human Services (Department) was represented by Temissia Hutchins, Hearings Coordinator, and Deslyn Griffin, Assistance Payments Worker. During the hearing, eight pages of documents were offered and admitted as Exhibit A, pp. 1-8.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case, effective July 1, 2018, for failure 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. Petitioner was sent a Semi-Annual Contact Report on or about May 1, 2018. Petitioner was required to return the completed Report by June 1, 2018. Exhibit A, pp. 5-6.

3. On May 8, 2018, Petitioner returned to the Department the completed Semi-Annual Contact Report. Petitioner reported that [REDACTED], her husband, moved back into the home on April 26, 2018. Exhibit A, pp. 5-6.
4. On June 7, 2018, the Department issued to Petitioner a Verification Checklist requesting verification of a "Checking Account" for "[REDACTED]," including "Current statement from bank or financial institution DHS 20 Verification of Assets."
5. On June 15, 2018, Petitioner provided to the Department verification of [REDACTED]'s checking account, including a current statement from the bank.
6. On June 22, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was being closed as a result of failing to return verifications for [REDACTED]'s checking account. Exhibit A, pp. 1-2.
7. On July 24, 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 order to be eligible for FAP benefits, an individual must have assets under the \$5,000 FAP asset limit. BEM 400 (May 2018), p. 5. Assets include checking accounts. BEM 400, pp. 1-2, 15. Thus, a client's eligibility can depend upon how much money is in his or her checking account.

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, 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.

Petitioner's Semi-Annual Contact Report included a statement that [REDACTED], Petitioner's husband, had moved into her home. This reported would impact eligibility for FAP benefits, so the Department requested verification of information related to the new household member. The request sent by the Department asked for the checking account information for "[REDACTED]" and required Petitioner to respond by June 18, 2018.

On June 15, 2018, Petitioner returned exactly what was requested by the Department: the checking account information for [REDACTED]. The Department acknowledged at the hearing that it received exactly what it technically asked for on the Verification Checklist. However, the Department deemed Petitioner's submission insufficient because Petitioner returned the checking account information for only one of the two individuals named [REDACTED] in the home. The information Petitioner returned was the checking account information for her son, not her husband. The Department wanted the information related to the husband. At no point, however, did the Department clarify its request or send out another Verification Checklist that specifically identified which of the two individuals named [REDACTED] it was requesting information about.

Petitioner responded in a timely and reasonable manner to the Verification Checklist sent on June 7, 2018. Despite providing exactly what was asked for, the Department subsequently 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. Certainly, timely providing exactly what was asked for but not actually what the Department wanted qualifies as a reasonable effort to provide the information. 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

Clarence Collins
12140 Joseph Campau
Hamtramck, MI 48212

Wayne County (District 55), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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