



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: September 18, 2018
MAHS Docket No.: 18-008112
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 September 13, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Angela Gaddis, Assistance Payments Worker, and Victoria Franklin, Assistance Payments Worker. During the hearing, 3 documents were offered and admitted as Exhibit A through Exhibit C.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for failing to timely return her Semi-Annual Contact Report?

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 on ongoing FAP beneficiary.
2. On February 1, 2018, the Department issued to Petitioner a Semi-Annual Contact Report in order to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Therein, the Department informed Petitioner that she must return the completed Semi-Annual Contact Report by March 1, 2018, or her FAP case would close effective March 31, 2018. Exhibit A, pp. 1-2.

3. Petitioner did not return the completed Semi-Annual Contact Report to the Department by the deadline of March 1, 2018.
4. On March 10, 2018, the Department issued to Petitioner a Notice of Potential Food Assistance (FAP) Closure. The Notice informed Petitioner that her FAP case would close, effective March 31, 2018, as a result of Petitioner's failure to return the completed Semi-Annual Contact Report. Exhibit B.
5. Sometime before March 23, 2018, Petitioner submitted to the Department an application for Child and Development Care (CDC) benefits.
6. On March 23, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her application for CDC benefits was denied but that her FAP benefits were "continued" from March 1, 2018, through September 30, 2018. Later in the form, Petitioner is informed that "Effective the date of this notice, the only change you are required to report for the Food Assistance program is: WHEN YOUR HOUSEHOLD INCOME EXCEEDS THE LIMIT LISTED BELOW," which was \$2,665. Exhibit C, pp.1-5.
7. On March 23, 2018, the Department issued to Petitioner a Simplified Six-Month Review form informing Petitioner that she "will receive a form in the mail called a Semi-Annual Contact Report." Exhibit C, p. 6.
8. After not receiving FAP benefits for April or May of 2018 despite the March 23, 2018, Notice of Case Action informing her that she was eligible during that time period, Petitioner submitted a May 25, 2018, application for FAP benefits to the Department.
9. On June 25, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her May 25, 2018, FAP application was denied for failing to verify income and employment information. Exhibit C, pp. 7-10.
10. On August 8, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her FAP benefits case and subsequent denial of her FAP application.

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, the Department closed Petitioner's FAP benefits case, effective March 31, 2018, as a result of Petitioner allegedly failing to return a Semi-Annual Contact Report that was sent in February of 2018 with a due date of March 1, 2018. On March 10, 2018, the Department issued to Petitioner a Notice of Potential Food Assistance (FAP) Closure indicating that if Petitioner failed to return the completed Semi-Annual Contact Report by March 31, 2018, her FAP case would be closed effective March 31, 2018. Petitioner credibly testified during the hearing that she in fact did return the completed Semi-Annual Contact Report to the Department on two separate occasions before her FAP case closed at the end of March of 2018. Then, after her case closed, Petitioner applied for FAP benefits again, and the Department denied Petitioner's application for allegedly failing to provide requested verifications.

Petitioner objects to the Department's closure of her FAP case at the end of March of 2018 for two reasons: (1) she believes she complied with the Semi-Annual Contact Report requirements, and (2) the Department approved her for FAP benefits on March 23, 2018, for March of 2018 through the end of September of 2018, and provided her no notice of a subsequent closure. Petitioner objects to the denial of her May 25, 2018, application because she believes she provided all of the requested information.

FAP CLOSURE

On February 1, 2018, the Department issued to Petitioner a Semi-Annual Contact Report. The document informed Petitioner that she was required to fill out and return the form to the Department by March 1, 2018, or her FAP case would close at the end of March of 2018. On March 10, 2018, the Department issued to Petitioner a Notice of Potential Food Assistance (FAP) Closure. This document informed Petitioner that at the end of March, her FAP case would close unless she returns the Semi-Annual Contact Report by that time. Petitioner's testimony is that she provided the completed Semi-Annual Contact Report twice before the March 31, 2018, deadline, once by fax and once in person. Petitioner's testimony was credible and consistent.

Even if Petitioner failed to return the completed Semi-Annual Contact Report, the Department was precluded from closing Petitioner's FAP case. On March 23, 2018, which was after the March 10, 2018, Notice of Potential Food Assistance (FAP) Closure, the Department informed Petitioner that her FAP benefits were approved from March 1, 2018, through September 30, 2018, via the March 23, 2018, Notice of Case Action. The Notice of Case Action informed Petitioner that, in the future, she may be issued a Semi-Annual Contact Report and that failure to return that form could result in her FAP case closing. The timing and content of the March 23, 2018, Notice of Case Action was, essentially, a reversal of the March 10, 2018, Notice of Potential Food Assistance (FAP) Closure. A plain reading of the March 23, 2018, Notice of Case

Action would lead any reasonable person to believe that Petitioner's FAP benefits would continue until September of 2018 without any further action from Petitioner. In fact, on page 3 of the Notice of Case Action, the Department informed Petitioner that the only thing she had to report to the Department was when her income exceeded a certain threshold.

When the Department closed Petitioner's case at the end of March of 2018, the Department failed to follow policy. Policy requires the sending of a Notice of Case Action when closing an open and ongoing FAP benefits case. At the point of sending the Notice of Case Action, the time limit to appeal is triggered. Because the Department failed to issue a Notice of Case Action reversing the March 23, 2018, Notice of Case Action informing Petitioner of ongoing eligibility, the time limits were never triggered, and Petitioner had the right to have the Department's improper closure reviewed. The Department's closure of Petitioner's FAP benefits case at the end of March of 2018 is reversed, and the Department's March 23, 2018, Notice of Case Action is reinstated.

FAP APPLICATION DENIAL

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), page 1. The level of FAP benefits a group receives is impacted by the income of the people in the group. BEM 550 (January 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, page 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, page 7.

The Department failed to produce any evidence of a VCL being sent to Petitioner requesting the information related to Petitioner's income and employment. Thus, the record is devoid of any request for verification of that information. Rather, the record only contains a Notice of Case Action informing Petitioner that her application was being denied as a result of an alleged failure to provide verifications. Department policy states that the Department must tell the client what verification is required and to use the VCL to request information. BEM 130, p. 3. The Department failed to establish that it followed policy when it determined that Petitioner failed to provide the requested information. Thus, the Department failed to act in accordance with policy when it denied Petitioner's FAP application for allegedly failing to verify information relevant to Petitioner's FAP eligibility.

DECISION AND ORDER

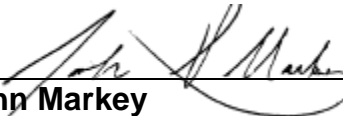
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case at the end of March of 2018 and when it denied Petitioner's FAP application via the June 25, 2018, Notice of Case Action.

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 implement the March 23, 2018 Notice of Case Action that informs Petitioner she is eligible for FAP benefits March 1, 2018, through September 30, 2018;
2. Reinstate Petitioner's FAP case, effective April 1, 2018;
3. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits she may thereafter be due; and
4. 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

Denise McCoggle
27260 Plymouth Rd
Redford, MI 48239

Wayne County (District 15), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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