



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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Date Mailed: September 26, 2018
MAHS Docket No.: 18-008562
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 20, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Rechela Hall, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case, effective June 1, 2018?

Did the Department properly deny Petitioner's application for FAP benefits, effective July 20, 2018, ongoing?

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 in a FAP group of three.
2. In April of 2018, the Department issued to Petitioner a Semi-Annual Contact Report.
3. On May 2, 2018, Petitioner returned to the Department the completed Semi-Annual Contact Report.

4. On May 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 June 1, 2018, as a result of Petitioner's alleged failure to return the completed Semi-Annual Contact Report.
5. On May 17, 2018, the Department issued to Petitioner a Verification Checklist (VCL) requesting information relating to Petitioner's FAP group's income, employment, and checking account information.
6. On June 4, 2018, the Department issued to Petitioner another VCL.
7. On June 5, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that, effective June 1, 2018, Petitioner's FAP case was being closed as a result of Petitioner's failure to provide the information requested in the June 4, 2018, VCL.
8. Sometime after Petitioner's FAP case was closed, Petitioner submitted to the Department an application for FAP benefits.
9. On August 15, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her application for FAP benefits was denied for having excess income.
10. On August 16, 2018, Petitioner filed with the Department a request for hearing with respect to the Department's actions in closing her FAP case, effective June 1, 2018, and denying her subsequent application for FAP benefits.

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 June 1, 2018, as a result of Petitioner allegedly failing to verify relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Sometime after the Department closed Petitioner's FAP case, Petitioner applied for FAP benefits and was

denied for having excess income. Petitioner objects to the closure of her FAP case, effective June 1, 2018, and the subsequent denial of her FAP application.

FAP CLOSURE, EFFECTIVE JUNE 1, 2018

The Department closed Petitioner's FAP benefits case for allegedly failing to return verifications related to Petitioner's FAP group's income.

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 documentary 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. Instead, the Department witness testified that a VCL was sent out on June 4, 2018, requesting information relevant to Petitioner's ongoing eligibility for FAP benefits. The witness further testified that the Department then improperly closed Petitioner's FAP case the very next day for failing to provide the information requested.

The Department acknowledged that it failed to act in accordance with policy when it closed Petitioner's FAP case for allegedly failing to verify information relevant to Petitioner's FAP eligibility.

FAP APPLICATION DENIAL

After the Department closed Petitioner's FAP case, effective June 1, 2018, Petitioner applied for FAP benefits. On August 15, 2018, the Department issued a Notice of Case Action informing Petitioner that her application for FAP benefits was denied as a result of having excess household income.

As the Department concedes the wrongfulness of its decision to close Petitioner's FAP case, effective June 1, 2018, it is unnecessary to analyze the Department's subsequent denial of Petitioner's FAP application. Nonetheless, the information presented by the Department at the hearing was not sufficient to carry the Department's burden of proof. At the hearing, the Department witness testified the information presented in the hearing packet was insufficient to substantiate either of the Department's actions in this case. The Department witness agreed that the proper course of action would be to reinstate Petitioner's FAP case, effective June 1, 2018, and issue supplements based upon Petitioner's eligibility for FAP benefits, effective June 1, 2018.


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, effective June 1, 2018. 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. Reinstate Petitioner's FAP case, effective June 1, 2018;
2. Work with Petitioner to obtain any necessary verifications that may be outstanding;
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

