



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: October 10, 2018
MAHS Docket No.: 18-008977
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 October 4, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator. During the hearing, two Exhibits were entered onto the record. Exhibit A is a nine-page packet of documents, and Exhibit B is a May 9, 2018, Notice of Case Action and Simplified Six-Month Review document consisting of six pages.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case, effective September 1, 2018, for allegedly failing to return verifications of assets, income, and expenses?

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 whose case was due for redetermination.
2. On April 16, 2018, the Department issued to Petitioner a Verification Checklist (VCL) in order to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Therein, the Department informed Petitioner that she

must return the verifications to the Department by April 26, 2018, in order to prevent the closure of her FAP case. Exhibit A, pp. 7-8.

3. On [REDACTED] 2018, Petitioner submitted to the Department a fax consisting of 18 pages. During the hearing, the Department witness testified that Petitioner's 18-page submission provided the vast majority of the information requested. Furthermore, the Department witness confirmed that the Department did not properly process Petitioner's submission as responsive to the VCL.
4. On May 9, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case had been approved from May 1, 2018, through April 30, 2019, in the amount of \$327 per month. The form stated that "Rent and dependent care verifications were not received. This directly affects your food amount. Please turn it in." Exhibit B, pp. 1-6.
5. On July 28, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was being closed effective September 1, 2018, for failing to verify her earned income and assets. Exhibit A, pp. 5-6.
6. On [REDACTED], 2018, Petitioner submitted to the Department a request for a hearing objecting to the Department's closure of her 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.

In this case, Petitioner has objected to the Department's action in closing her FAP benefits case for allegedly failing to return verifications related to Petitioner's income and assets.

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

In this case, the Department closed Petitioner's FAP benefits case, effective September 1, 2018, as a result of Petitioner allegedly failing to respond to a VCL that was sent on April 16, 2018, with a due date of April 26, 2018. However, during the hearing, the Department witness acknowledged that Petitioner did, in fact, timely provide a number of the verifications requested. Contrary to Department policy, however, the Department did not process the submissions as responsive to the VCL. Instead, the Department considered all of the requested verifications outstanding.

Rather than closing Petitioner's case for allegedly failing to provide the verifications, the Department continued to pay Petitioner FAP benefits going forward. Then, on May 9, 2018, the Department issued to Petitioner the Notice of Case Action informing Petitioner that she was approved for continuing benefits from May 1, 2018, through April 30, 2019, and that the only verifications outstanding were related to dependent care expenses and rent. Then, on July 28, 2018, the Department issued a Notice of Case Action to Petitioner informing her that her case was closing effective September 1, 2018, for failing to respond to the VCL sent on April 16, 2018.

Petitioner objects to the Department's closure of her FAP case effective September 1, 2018, for two reasons: (1) she believes she complied with the April 16, 2018, VCL requirements, and (2) the Department approved her for FAP benefits on May 9, 2018, for May 1, 2018, through April 30, 2019, and informed Petitioner at that time the only verifications she needed were in regard to expenses, not income or assets.

During the hearing, the Department witness conceded that the Department did not follow Department policy in numerous regards in this case. First, the Department failed to properly process Petitioner's April 25, 2018 submission in response to the April 16, 2018, VCL. Second, the Department improperly certified Petitioner's FAP case going forward without all of the verifications being logged into the Department's records. Finally, the Department failed to specify what exactly was missing when it closed Petitioner's FAP case. Based on the evidence presented and the Department's own admissions, it is clear that the Department failed to follow Department policy.

When the Department closed Petitioner's case effective September 1, 2018, the Department failed to follow policy. The Department's closure of Petitioner's FAP benefits case effective September 1, 2018, is reversed.

DECISION AND ORDER

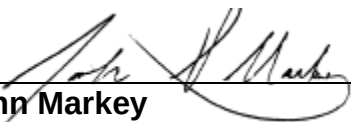
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case effective September 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 September 1, 2018;
2. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits she may thereafter be due; and
3. Issue written notice of any case action(s) in accordance with Department policy.

JM/hb


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

Tolisha Bates
21885 Dunham Road
Clinton Twp., MI 48036

Macomb County (District 12), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]