



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: October 10, 2018
MAHS Docket No.: 18-009047
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 Rechela Hall, Eligibility Specialist. During the hearing, a 27-page packet of documents was offered and admitted as Exhibit A, pp. 1-27, and a two-page document was offered and admitted as Exhibit B, pp. 1-2.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits for failing to timely return verifications related to group assets?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], 2018, Petitioner submitted to the Department an application for FAP benefits with a group including herself and her three children.
2. On July 23, 2018, the Department issued to Petitioner a Verification Checklist (VCL) requesting Petitioner's bank account information for Chase Bank along with account information for accounts held in each of her three children's names. The information was due by August 2, 2018. Exhibit A, pp. 5-6.

3. On July 25, 2018, and August 1, 2018, Petitioner provided to the Department packets of documents that were responsive to the VCL. The documents included current information regarding Petitioner's assets and a handwritten letter informing the Department that Petitioner was unable to gather the requested information regarding the accounts of her children because the accounts are controlled by the children's father. Exhibit A, pp. 10-27.
4. On August 10, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP application was denied for failing to return requested verifications. Specifically, the Department claimed that Petitioner failed to provide savings account information for the three children and checking account information for herself. Exhibit A, pp. 7-9.
5. On August 30, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's 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.

Petitioner filed a hearing request in this matter to challenge the Department's denial of Petitioner's [REDACTED], 2018, application for FAP benefits. The Department alleges that Petitioner failed to make a reasonable effort to return verifications relating to FAP group assets. Petitioner's position is that she, in fact, did provide the requested verifications on multiple occasions or at the very least inform the Department why she could not provide the information.

Verification of relevant, eligibility-related information is required at application. BAM 130 (April 2017), p. 1. For FAP, group asset information is highly relevant in determining eligibility for FAP. BEM 400 (May 2018), p. 1. To request verification of information, the Department sends a 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. The Department sends a negative action notice

when: (1) the client indicates a refusal to provide a verification OR (2) the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department's July 23, 2018, VCL requested statements concerning checking and savings accounts held by Petitioner and each of Petitioner's children. The requested verifications had to be received by the Department by August 2, 2018.

On July 25, 2018, Petitioner provided to the Department a copy of Petitioner's 2017 tax return. On August 1, 2018, Petitioner provided to the Department statements concerning all of the open accounts that she knew about as well as a hand written statement explaining that she was unable to get the information requested regarding her children's accounts because they were held by the children's father. In fact, at the hearing, Petitioner credibly testified that she did not even know about the accounts until the Department started asking about them.

Petitioner believed that she complied with the Department's VCL. However, upon reviewing the documents submitted by Petitioner, the Department deemed them to be insufficient and issued an August 10, 2018, negative case action denying Petitioner's July 17, 2018, FAP application. At no point before denying Petitioner's FAP application did the Department send out another VCL that specifically identified why the timely submission by Petitioner was insufficient or incomplete.

Petitioner responded in a timely and reasonable manner to the VCL sent on July 23, 2018. Despite making a reasonable good faith effort to provide what was asked for, the Department deemed Petitioner's submission insufficient and 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. Petitioner never indicated an unwillingness to provide the information, and certainly, timely providing a substantial portion of what was asked for but not quite providing enough qualifies as a reasonable effort to provide the information. As neither of the conditions for sending a negative case action were present, the Department was precluded from sending a negative case action.

This was simply a case where the information concerning an eligibility factor (income and employment) was incomplete and needed further verification pursuant to the verification policy, which requires the sending of a VCL unless the effort was not reasonable or the client expressed a refusal to provide the information. Petitioner's effort was reasonable, as evidenced by her testimony and the documentary evidence presented during the hearing, and she did not express a refusal or unwillingness to provide the requested information. Thus, the Department violated policy by sending the negative action notice and denying Petitioner's FAP application.

The remedy for this error is to allow Petitioner the opportunity to complete the application process by providing to the Department the documents necessary to determine her eligibility. The Department must issue to Petitioner a detailed VCL informing Petitioner specifically the information that it needs, and Petitioner, in order to complete the process, must comply with the request.

DECISION AND ORDER

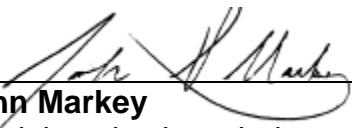
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FAP application 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. Reprocess Petitioner's FAP application back to the date of application and issue Petitioner any appropriate Verification Checklists **specifically and clearly** requesting the asset information the Department considers missing;
2. If Petitioner provides the required verifications and is found eligible for FAP benefits, award Petitioner FAP benefits, including any appropriate supplements for the time between application and the determination of eligibility; and
3. Notify Petitioner in writing of its decision.

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

Randa Chenault
25620 W. 8 Mile Rd
Southfield, MI 48033

Oakland County (District 3), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]