



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: October 15, 2018
MAHS Docket No.: 18-009288
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 10, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Erin Japenga, Assistance Payments Supervisor, and [REDACTED], Success Coach. During the hearing, a 29-page packet of documents was offered and admitted as Exhibit A, pp. 1-29.

ISSUES

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits?

Did the Department properly process Petitioner's application for Direct Support Services (DSS)?

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 benefits from the Department. Exhibit A, pp. 3-13.
2. On the application, Petitioner indicated that she was applying for FAP benefits and State Emergency Relief (SER) benefits. However, Petitioner clarified at the

hearing that she believed SER was to provide food benefits and did not intend to request any of the benefits available under SER. Exhibit A, pp. 3-13.

3. Petitioner's application informed the Department that Petitioner had been laid off for two weeks in July 2018 for lack of work and was going to be returning to work sometime soon. Exhibit A, p. 8.
4. Petitioner submitted with the application a handwritten note stating, "Also need help with getting a vehicle I've been on my current job vehicle was totaled out". Exhibit A, p. 12.
5. Along with the application, Petitioner also submitted a statement from her bank showing her current checking account balance and paycheck stubs showing the previous 30 days of her income with her employer. Exhibit A, pp. 16-21.
6. On August 14, 2018, Petitioner and Ms. Brown spoke on the phone regarding Petitioner's application for assistance from the Department. Exhibit A, pp. 14-15.
7. Following the conversation, the Department issued to Petitioner a Verification Checklist (VCL) dated August 14, 2018. The VCL requested the "[I]ast 30 days of check stubs or earnings statements" from Petitioner's employment. Petitioner was warned that if she failed to return the requested information by August 24, 2018, her application would be denied. At that point, Petitioner had already provided the Department with the information requested in the VCL. Exhibit A, pp. 21-22.
8. On September 5, 2018, the Department issued to Petitioner a Benefit Notice informing Petitioner that her FAP application was denied because of Petitioner's alleged failure to return a requested paystub and verification of her residency. Exhibit A, pp. 26-27.
9. On September 7, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's denial of her FAP application and failure to process her application for assistance with respect to her vehicle.

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).

In this case, Petitioner submitted to the Department an application for assistance. On the application, Petitioner requested FAP benefits and assistance with fixing or replacing her vehicle. The Department denied Petitioner's FAP application and did not take any action with respect to Petitioner's request for vehicle assistance.

FAP APPLICATION DENIAL

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.

The Department denied Petitioner's FAP application because Petitioner allegedly failed to provide requested verifications regarding her income. Petitioner applied for FAP benefits on [REDACTED], 2018. With her application, Petitioner submitted paycheck stubs covering the previous 30 days of wages from her employer. Four days later, the Department issued to Petitioner a VCL requesting from Petitioner the "[I]ast 30 days of check stubs or earnings statements". As Petitioner had already provided that information, she was confused and thought it must be in error. The requested verifications were due by August 24, 2018, but Petitioner did not provide anything additional to the Department. After the deadline for returning the requested verifications passed, the Department issued a Benefit Notice informing Petitioner that her FAP application was denied because her "paystub from 08/10/18 was not returned."

Verification of relevant, eligibility-related information is required at application. BAM 130 (April 2017), p. 1. For FAP, income and employment information are highly relevant in determining both eligibility for FAP and the level of FAP benefits to which a group is entitled. BEM 550 (January 2017), 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 August 14, 2018, VCL requested from Petitioner paystubs covering the previous 30 days of wages from employment. Petitioner had already provided that information with her application on August 10, 2018. Verifications are considered timely if they are received by the due date, and the Department had the requested information even at the time the VCL was issued. Thus, Petitioner did not fail to timely return verifications. The Department never asked Petitioner for a "paystub from 08/10/18." Given Petitioner's previous submission that satisfied the VCL request and the lack of specificity in the VCL, Petitioner's actions cannot be considered to exhibit an unwillingness to comply. Likewise, Petitioner made a reasonable effort to provide the information as she provided it to the Department before the Department even asked for it. The Department may only take negative action where the client expresses a refusal to provide the verification or the time period has elapsed, and the client failed to make a

reasonable effort to provide it. Neither of those circumstances is present in this case. Thus, the Department failed to follow Department policy when it denied Petitioner's FAP application.

APPLICATION FOR DSS

In this case, Petitioner submitted an application for benefits to the Department on [REDACTED], 2018. In the application, Petitioner unambiguously requested the Department's assistance in remedying her job-related transportation issue. As of the date of the hearing, no action had been taken on Petitioner's request. The Department's position was that Petitioner's statement in her application was not an application for DSS services. Thus, the Department asserts that it was not required to issue an adjudication regarding Petitioner's eligibility for that program.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603. The Department provides funds for DSS for goods and services provided to help families achieve self-sufficiency. BEM 232 (October 2014), p. 1. The Department may provide funds for vehicle repairs or purchases for vehicles that are the primary means of transportation for employment-related activities. BEM 232, pp. 15-16. The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (January 2018), p. 16. For DSS cases, requests for services must be processed as quickly as possible. BAM 115, p. 16.

When a person requests assistance from the Department, that person has the right to receive the appropriate application form. BAM 110 (April 2018), p. 1. Furthermore, the Department is required to inform a person about programs they ask about. BAM 105 (January 2018), p. 14. Petitioner was clearly interested in DSS benefits. She specifically requested assistance that falls within the parameters of the DSS program and provided sufficient information in her application to provide the Department with an opportunity to make a decision on the request. Then, four days after submitting the application, Petitioner conducted an interview with Ms. Brown. Ms. Brown was required to review the application prior to the interview and discuss any eligibility related issues with Petitioner. BAM 115, p. 18. However, as of the date of the hearing, no action had been taken with respect to Petitioner's clear request for DSS assistance.

When a person submits an application for DSS benefits, that person is entitled to receive a notification informing Petitioner of the outcome of the request. BEM 232, p. 7. However, the Department failed to take any action with respect to that request for assistance. Thus, the Department failed to follow Department policy by failing to process Petitioner's request for DSS.

DECISION AND ORDER

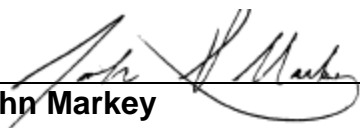
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FAP application for Petitioner's alleged failure to submit required verifications and failed to process Petitioner's DSS application.

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;
2. If Petitioner is eligible for FAP benefits, award Petitioner FAP benefits, including any appropriate supplements for the time between application and the determination of eligibility;
3. Notify Petitioner in writing of its decision with respect to FAP eligibility;
4. Reprocess Petitioner's request for DSS benefits as of the date of the application;
5. If the Department needs any further information from Petitioner to determine eligibility for DSS, issue clearly worded and specific requests for verification;
6. If upon processing Petitioner's application for DSS, the Department approves Petitioner's request, properly process the payment according to Department policy;
7. Notify Petitioner in writing of its decision with respect to DSS.

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

Lynne Greening
2700 Baker Street
PO Box 4290
Muskegon Heights, MI 49444

Muskegon County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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