



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

Date Mailed: November 13, 2018
MAHS Docket No.: 18-010083
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, an in-person hearing was held on November 8, 2018, in Caro, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Tammy Schmaltz, Eligibility Specialist. During the hearing, a 22-page packet of documents was offered and admitted as Exhibit A, pp. 1-22; a five-page packet of documents was offered and admitted as Exhibit 1, pp. 1-5; and a one-page document was offered and admitted as Exhibit 2.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case as a result of Petitioner's failure to timely provide requested verifications to the Department related to Petitioner's household income?

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 recipient of benefits from the Department, including FAP and Medicaid (MA).
2. On May 4, 2018, the Department issued to Petitioner a Redetermination in order to gather relevant information regarding Petitioner's ongoing eligibility for Department issued benefits. Exhibit A, pp. 3-10.

3. On May 18, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that, based on the information the Department presently had, Petitioner was eligible for FAP benefits in the amount of \$226 per month for the period from June 1, 2018, through December 31, 2018. Accompanying the Notice of Case Action was a document entitled Simplified Six-Month Review informing Petitioner that at some point in the future she would receive a Semi-Annual Contact Report that had to be timely returned in order to ensure continuing benefits. Exhibit 1, pp. 1-2.
4. On May 30, 2018, Petitioner returned the completed Redetermination to the Department. Section 11 of the Redetermination instructed Petitioner to, amongst other things, “[r]eport all sources of earned and unearned income. Provide proof of all income your household received, including any stopped income. Provide proof of the last 30 days of employment, unemployment, social security benefits, pension, etc.” Petitioner’s response in Section 11 was, in full, “(ON FILE).” Exhibit A, pp. 3-10.
5. The Department did not timely process Petitioner’s returned Redetermination.
6. On July 23, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that, based on the information the Department presently had, Petitioner was eligible for FAP benefits in the amount of \$224 per month for the period from August 1, 2018, through December 31, 2018. Accompanying the Notice of Case Action was a document entitled Simplified Six-Month Review informing Petitioner that at some point in the future she would receive a Semi-Annual Contact Report that had to be timely returned in order to ensure continuing benefits. Exhibit 1, pp. 3-4.
7. The Department finally began to process Petitioner’s returned Redetermination in early August 2018. As part of the process, the Department ran a Consolidated Income Inquiry Search on Petitioner and the members of her household. The search showed that [REDACTED], Petitioner’s fiancé, had income that did not match the amount reported by Petitioner and budgeted for the purposes of calculating Petitioner’s monthly FAP benefit amount. Exhibit A, pp. 11-12.
8. On August 13, 2018, the Department issued to Petitioner a Verification Checklist (VCL) requesting information related to [REDACTED] income from his employment with [REDACTED]. Specifically, Petitioner was required to provide check stubs showing the last 30 days of income and an employer statement regarding his employment with [REDACTED]. The information was due by August 23, 2018. Petitioner was informed that if she did not provide the information by the due date, her “benefits may be denied, decreased, or cancelled.” Exhibit A, pp. 13-14.
9. On or about September 6, 2018, Petitioner submitted to the Department a handwritten document requesting more time to provide the required proofs related to [REDACTED] income. Exhibit 2.

10. On September 8, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was being closed, effective October 1, 2018, for failing to provide the verifications of income requested on the August 13, 2018 VCL. Exhibit A, pp. 15-18.
11. On [REDACTED] 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her FAP 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.

Petitioner filed a hearing request in this matter to challenge the Department's closure of Petitioner's FAP benefits case, effective October 1, 2018. The Department alleges that Petitioner failed to make a reasonable effort to return verifications relating to Petitioner's household 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. 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.

In early August of 2018, the Department ran a Consolidated Income Inquiry Search as a part of the Redetermination process concerning Petitioner's Department issued benefits. The results of that search were contradictory with respect to the amount of income the Department was budgeting for the group when calculating Petitioner's

monthly FAP benefits. Accordingly, the Department requested verification from Petitioner in an attempt to resolve the conflict between what Petitioner reported and what the Department discovered. The Department's August 13, 2018, VCL requested paystubs from household member [REDACTED] the previous 30 days before the issuance of the VCL. The requested verifications had to be received by the Department by August 23, 2018.

As of the date of the hearing, Petitioner never provided any responsive information the Department. Instead, she submitted a September 6, 2018, request for an extension of time to provide the information. Thus, as of the time of the hearing, Petitioner had not provided to the Department any of the verifications required to resolve the discrepancy regarding her household's income.

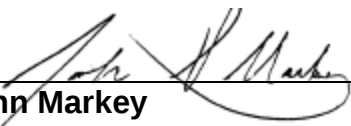
The Department may only send negative case action where an individual indicates a refusal to provide verification or the time limit for providing the verification has passed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. The time limit passed on August 23, 2018. By that time, Petitioner had not made a reasonable effort to provide the information requested nor had she communicated with the Department in any way. Based on the information, it is clear that Petitioner's effort to procure and provide the information prior to the deadline was not reasonable. The Department, in closing Petitioner's FAP case for failing to reasonably respond to the VCL, followed Department policy.

Notably, Petitioner did bring to the hearing the information requested in the VCLs. Petitioner was encouraged by Ms. Schmaltz to provide that information to the Department after the hearing and to reapply for FAP benefits. While the undersigned may not consider the newly produced documents in rendering this decision, they will certainly be taken into consideration by the Department in determining her eligibility going forward provided they are genuine paystubs.

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 acted in accordance with Department policy when it closed Petitioner's FAP case, effective October 1, 2018, for failing to provide required verifications. Accordingly, the Department's decision is **AFFIRMED**.

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

Rolando Gomez
1365 Cleaver Road
Caro, MI 48723

Tuscola County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]