



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: November 8, 2018
MAHS Docket No.: 18-010373
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 November 5, 2018, from Lansing, Michigan. Petitioner appeared and was represented by her mother and authorized hearing representative, [REDACTED]. The Department of Health and Human Services (Department) was represented by Jennifer Cole, Lead Eligibility Specialist, and Rita Edwards, Eligibility Specialist. During the hearing, a 12-page packet of documents was offered and admitted as Exhibit A, pp. 1-12.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits for allegedly failing to provide requested verifications?

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 applied for FAP benefits.
2. On August 14, 2018, the Department issued to Petitioner a Verification Checklist (VCL) requesting verifications of Petitioner's checking and savings accounts, income, and expenses. The verifications were due by August 24, 2018. Exhibit A, pp. 6-7.

3. On August 23, 2018, Petitioner returned to the Department verifications of her wages, rent, and checking account. Petitioner had asked her financial institution about a savings account and was informed that she did not have one. Thus, no verifications were returned regarding a savings account that did not exist.
4. On August 27, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her application was denied for failing to provide verifications of her checking and savings accounts. Exhibit A, pp. 9-12.
5. On [REDACTED], 2018, Petitioner filed with 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.

In this case, Petitioner objects to the Department's decision to deny her FAP application due to an alleged failure to provide requested verifications. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 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, 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. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR 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, Verification Checklist requested checking and savings information for Petitioner. The requested verifications had to be received by the Department by August 24, 2018. On August 23, 2018, Petitioner provided to the Department only checking account information because she did not have any savings account and had not had any savings accounts for years. Upon reviewing the documents submitted by Petitioner, the Department deemed them to be insufficient and issued a negative case action denying Petitioner's application for failing to provide both checking and savings account information, despite Petitioner providing information regarding all of her open accounts. At no point before denying Petitioner's FAP case did the Department send out another Verification Checklist that specifically identified why the timely submission by Petitioner was insufficient or incomplete.

Petitioner responded in a timely and reasonable manner to the Verification Checklist sent on August 14, 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 the vast majority 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) was incomplete and needed further verification pursuant to the verification policy, which requires the sending of a Verification Checklist. The Department instead improperly denied Petitioner's FAP application. Thus, the Department violated policy by sending the negative action notice and denying Petitioner's FAP application.

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.

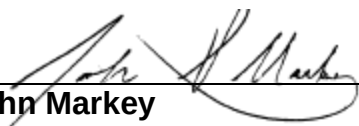
Accordingly, the Department's decision is **REVERSED**.

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. Reregister Petitioner's [REDACTED] 2018 FAP application;

2. Issue any verifications to Petitioner that may still be needed and ensure that the requests are clear as to what is being requested;
3. If Petitioner is eligible for additional FAP benefits, issue FAP supplements Petitioner was eligible to receive from August 10, 2018, but did not as a result of the Department's improper denial of her FAP application; and
4. Notify Petitioner in writing of its decision.

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

Deborah Little
5131 Grand River Ave.
Detroit, MI 48208

Wayne County (District 49), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]