



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: December 20, 2018
MAHS Docket No.: 18-011819
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 December 18, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Francene James-Franklin, Eligibility Specialist, and Lesley Coffee, Family Independence Manager. During the hearing, an 11-page packet of documents was offered and admitted as Exhibit A, pp. 1-11.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case based on Petitioner's alleged failure to provide necessary asset 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. Petitioner was an ongoing FAP beneficiary.
2. On [REDACTED] 2018, Petitioner submitted to the Department an application for State Emergency Relief (SER) benefits. On the application, Petitioner indicated that she owned a 2005 GMC Envoy.
3. On October 3, 2018, the Department issued to Petitioner a Verification Checklist (VCL) requesting verifications of the value and ownership of a vehicle. The verifications were due by October 15, 2018. Exhibit A, pp. 4-5.

4. Sometime in October 2018, Petitioner used the online portal to submit to the Department a copy of the registration for the 2005 GMC Envoy showing that she was the owner. The Department did not have record of receiving Petitioner's submission.
5. On October 22, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was closing effective December 1, 2018 for failing to return verifications of her vehicle value and ownership. Exhibit A, pp. 6-9.
6. On [REDACTED] [REDACTED] 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.

In this case, Petitioner had an ongoing FAP case when she applied for SER benefits on [REDACTED] [REDACTED] 2018. On the [REDACTED] [REDACTED] 2018 SER application, Petitioner reported that she had a 2005 GMC Envoy. Because Petitioner had previously reported that she had a 1997 Nissan Maxima, which she no longer had as of [REDACTED] [REDACTED] 2018 and accordingly did not report on the SER application, the Department believed that there was a question as to Petitioner's asset eligibility for FAP benefits. In order to resolve that alleged question regarding eligibility, the Department issued to Petitioner the October 3, 2018 VCL requesting ownership and valuation information regarding the 2005 GMC Envoy. After Petitioner allegedly failed to respond to the VCL, the Department issued the October 22, 2018 Notice of Case Action closing Petitioner's FAP case effective December 1, 2018.

In order to be eligible for FAP, a group must have countable assets of \$5,000 or less. BEM 400 (May 2018), p. 5. Vehicles are considered assets when determining FAP eligibility. BEM 400, pp. 39-40. However, special rules apply when determining how the value of a group's vehicles apply towards the FAP asset limit. BEM 400, pp. 39-40. First, the Department must exclude the one vehicle with the highest fair market value. BEM 400, p. 40. The Department then adds together the value of the remaining vehicles to get the countable value. BEM 400, pp. 39-40. If the countable value exceeds \$15,000, the excess is applied towards the \$5,000 asset limit. BEM 400, pp.

39-40. For instance, if the countable value of a client's vehicles equals \$17,000, the value of the vehicles will, in total, count as \$2,000 towards the FAP asset limit. BEM 400, pp. 39-40.

Verification of relevant, eligibility-related information is required. BAM 130 (April 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. The client must obtain required verifications, but the local office must assist if they need and request help. BAM 130, p. 3. 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. However, Department policy directs the Department as follows: "Do **not** require verification of a vehicle when the client claims to own **only** one vehicle. Verify **only** if questionable." BEM 400, p. 60.

On Petitioner's [REDACTED] 2018 SER application, Petitioner reported that she owned one vehicle, a 2005 GMC Envoy. The Department's October 3, 2018, VCL required Petitioner to verify the ownership and valuation of her 2005 GMC Envoy. While Petitioner credibly testified that she provided the requested verifications, the Department did not have any record of Petitioner's submission and closed her FAP case. During the months of October and November 2018, Petitioner repeatedly attempted to confirm with the Department that all required documentation was submitted but was unable to get any useful assistance.

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 based on Petitioner's credible testimony, she made a reasonable effort to provide the documents. As neither of the conditions for sending a negative case action were present, the Department was precluded from sending a negative case action.

Additionally, Petitioner only reported owning one vehicle. As such, Department policy does not require the verification of the ownership or value of the vehicle because one vehicle per household is an excluded asset. During the hearing, the Department testified that Petitioner had previously reported owning a 2005 Nissan Maxima, which Petitioner had disposed of in August 2018. Presumably, the Department's position was that because she had previously owned a vehicle, she now owned two and verifications were necessary. However, the Department did not show that Petitioner's claim to only own one vehicle on [REDACTED] 2018 was questionable. Thus, the Department should not have asked for the verifications in the first place, at least not without more information than is contained in this record.

Petitioner's effort was reasonable, as evidenced by her testimony presented during the hearing, and she did not express a refusal or unwillingness to provide the requested information, which probably should not have been requested anyways. Thus, the Department violated policy by closing Petitioner's FAP case, effective December 1, 2018.

It should further be noted that the parties concede that even if Petitioner owned both the [REDACTED] [REDACTED] [REDACTED] and the [REDACTED] [REDACTED] [REDACTED] Petitioner's asset eligibility would in no way be called into question. As the most valuable vehicle is excluded along with the first \$15,000 of value on any remaining vehicles, the combination of those two vehicles could in no reasonable circumstances result in any vehicular assets being counted against Petitioner as neither vehicle is worth anywhere near \$15,000.

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 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. Reinstate Petitioner's FAP case back to the date of closure, December 1, 2018, and if there are any legitimate questions regarding Petitioner's eligibility for FAP benefits, issue Petitioner any appropriate Verification Checklists **specifically and clearly** requesting the information the Department considers missing or in question;
2. If Petitioner is eligible for additional FAP benefits, issue any appropriate supplements; and
3. Notify Petitioner in writing of its decision.

JM/nr



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

Richard Latimore
4733 Conner
Detroit, MI
48215

Wayne 57 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

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