



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: December 21, 2018
MAHS Docket No.: 18-012122
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 19, 2018, from Detroit, Michigan. Petitioner represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective June 30, 2018?

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 a recipient of FAP benefits.
2. Petitioner timely submitted a Redetermination.
3. Petitioner was required to participate in a telephone interview.
4. Petitioner failed to participate in the telephone interview to the satisfaction of the Department.
5. On October 24, 2018, the Department sent Petitioner a Benefit Notice which notified Petitioner that his FAP benefits would end on June 30, 2018.

6. On November 1, 2018, Petitioner filed a Request for Hearing disputing the Department's actions.

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, the Department testified that it closed Petitioner's FAP benefits due to his failure to cooperate in a mandatory telephone interview. Petitioner denied that he failed to fully participate in the interview. Petitioner testified that he began the interview with [REDACTED]. However, he believed [REDACTED] to be unprofessional and thus requested to speak with [REDACTED] supervisor. Petitioner confirmed that he completed the telephone interview with [REDACTED] and that the call ended cordially. Neither [REDACTED] nor Ms. [REDACTED] appeared at the hearing. As such, Petitioner's testimony that he completed the telephone interview is accepted.

The Department disagreed that Petitioner fully cooperated with the interview. Under Department policy, 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 is required, before determining eligibility, to give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 9. If the Department believe that Petitioner did not answer some of the questions needed to determine eligibility it should have sent Petitioner a Verification Checklist in an effort to obtain the remaining information. If Petitioner failed to return the requested information, then the Department could proceed with the closure of his FAP benefits.

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 did not act in accordance with Department policy when it closed Petitioner's FAP benefits on June 30, 2018.

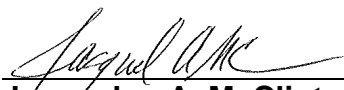
DECISION AND ORDER

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. Redetermine Petitioner's eligibility for FAP benefits as of July 1, 2018, ongoing in accordance with Department policy;
2. If Petitioner was eligible for supplements, issue FAP supplements Petitioner was entitled to but did not receive effective July 1, 2018; and
3. Notify Petitioner in writing of its decision.

JAM/tlf



Jacquelyn A. McClinton
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

Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]