



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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Date Mailed: December 28, 2018
MAHS Docket No.: 18-012002
Agency No.: ██████████
Petitioner: ██████████

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 20, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Kathleen Scorpio-Butina. During the hearing, a 19-page packet of documents was offered and admitted as Exhibit A, pp. 1-19.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case, effective December 1, 2018, based on Petitioner's alleged failure to timely return the Semi-Annual Contact Report?

Did the Department properly close Petitioner's Child Development and Care (CDC) benefits case, effective December 1, 2018, based on Petitioner's alleged failure to timely return a completed Redetermination?

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 FAP and CDC benefits. Both programs were due for recertification for the period starting December 1, 2018.

2. On [REDACTED] 2018, the Department issued to Petitioner a Semi-Annual Contact Report to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. The document informed Petitioner that she was required to fill out and return the form, along with proof of any reported changes, to the Department by November 1, 2018. Petitioner was warned that failure to provide the required information would result in Petitioner's FAP case closing at the end of November 2018. Exhibit A, pp. 6-8.
3. On October 4, 2018, the Department issued to Petitioner a Redetermination to gather relevant information regarding Petitioner's ongoing eligibility for CDC benefits. The document informed Petitioner that she was required to fill out and return the form, along with proof of any reported changes, to the Department by November 1, 2018. Petitioner was warned that failure to provide the required information would result in Petitioner's CDC case closing. Exhibit A, pp. 9-16.
4. On November 10, 2018, the Department issued to Petitioner a Notice of Potential Food Assistance (FAP) Closure informing Petitioner that her FAP case was closing at the end of November 2018 due to Petitioner's failure to return the completed Semi-Annual Contact Report. Petitioner was directed to contact the Department if she needed another copy of the form or if she had any questions. Exhibit A, p. 18.
5. On November 10, 2018, the Department issued to Petitioner a Notice of Potential Child Development and Care (CDC) Closure informing Petitioner that her CDC case was closing at the end of November 2018 due to Petitioner's failure to return the completed Redetermination. Petitioner was directed to contact the Department if she needed another copy of the form or if she had any questions. Exhibit A, p. 19.
6. On November 16, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's actions with respect to her FAP and CDC benefits cases.

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 objects to the Department's decision to close Petitioner's FAP and CDC cases for failing to return forms required to determine continuing eligibility for those programs.

FAP CLOSURE

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 mailed to Petitioner a Semi-Annual Contact Report on October 1, 2018. Petitioner was instructed to return the completed form to the Department by November 1, 2018, in order to avoid the closure of her FAP case at the end of November 2018. Petitioner did not return the form. On November 10, 2018, the Department mailed to Petitioner a Notice of Potential Food Assistance (FAP) Closure informing Petitioner that her FAP case was closing at the end of November 2018 due to Petitioner's failure to return the completed Semi-Annual Contact Report. The document provided Petitioner instructions on how to avoid the closure by providing the completed forms. Petitioner did not submit the completed Semi-Annual Contact Report, and her FAP case closed, effective December 1, 2018.

Clients must cooperate with the local office in determining initial and ongoing eligibility, and this includes the completion of necessary forms. BAM 105 (January 2018), p. 9. One of the forms the Department sends out when assessing ongoing eligibility for FAP benefits is the Semi-Annual Contact Report. BAM 210 (January 2018), pp. 10-11. The report is considered complete when all of the sections, including the signature, are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210, p. 11. The completed Semi-Annual Contact Report is due to the Department by the 10th day of the month in which the benefit period ends. BAM 210, p. 14. If a client has not returned the completed Semi-Annual Contact Report by the 10th day of the month it is due, the Department issues a Potential Food Assistance (FAP) Closure to the client reminding the client to return the completed form and all verifications by the end of the month, or the case will close. BAM 210, p. 14.

The Department followed Department policy with respect to the Semi-Annual Contact Report. Petitioner was clearly informed of the requirements with respect to returning the completed Semi-Annual Contact Report and the consequences for failing to do so. Petitioner, however, failed to heed those instructions and turned in nothing to the Department before the end of November 2018. Because the Department did not have the required form by the end of November 2018, Petitioner's FAP benefit period properly expired. In closing Petitioner's FAP case, the Department acted in accordance with Department policy.

CDC CLOSURE

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The Department mailed to Petitioner a Redetermination on October 4, 2018. Petitioner was instructed to return the completed form to the Department by November 1, 2018, in order to avoid the closure of her CDC case. Petitioner did not return the form. On November 10, 2018, the Department mailed to Petitioner a Notice of Potential Child Development and Care (CDC) Closure informing Petitioner that her CDC case was closing at the end of November 2018 due to Petitioner's failure to return the completed Redetermination. The document provided Petitioner instructions on how to avoid the closure by providing the completed forms. Petitioner did not submit the completed Redetermination, and her CDC case closed, effective December 1, 2018.

Periodically, the Department must redetermine or renew a client's eligibility for CDC benefits by the end of each benefit period. BAM 210 (January 2018), pp. 1, 4. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. If a redetermination is not completed and a new benefit period certified, CDC benefits stop at the end of the benefit period. BAM 210, pp. 12-13. A redetermination packet is considered completed when all of the sections of the redetermination form, including the signature section, are completed. BAM 210, p. 12. When a redetermination packet is not logged by the 10th day of the redetermination month, a Notice of Potential Child Development and Care (CDC) Closure is sent to the client to inform the client that CDC benefits will end the pay period that holds the last day of the month. BAM 210, pp. 12-13.

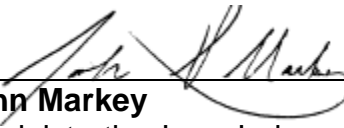
Petitioner's benefit period was set to end, so the Department timely initiated the Redetermination process. Petitioner was clearly informed of the requirement to fill out the Redetermination and return it to the Department to avoid closure of her CDC benefits case. Petitioner was clearly informed of the consequences for failing to do so. Petitioner, however, failed to return the completed Redetermination at any point prior to the closure of her CDC case. In closing Petitioner's CDC case, the Department acted according to Department policy.

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 CDC case.

DECISION AND ORDER

Accordingly, the Department's decisions are **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

Lauren Casper
27690 Van Dyke
Warren, MI 48093

Macomb County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

L. Brewer-Walraven via electronic mail

Petitioner

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