



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: June 29, 2017
MAHS Docket No.: 17-006851
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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; 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 June 28, 2017, from Detroit, Michigan. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Victoria Boler, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective May 1, 2017?

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 benefits.
2. On March 31, 2017, Petitioner submitted her Redetermination.
3. On April 4, 2017, a telephone interview was conducted with Petitioner and the Department.
4. On April 4, 2017, the Department sent Petitioner a Verification Checklist (VCL) and Verification of Employment requesting proof of her son's employment income (adult home help income) and it was due back by April 14, 2017. [Exhibit A, pp. 5-8.]

5. On April 7, 2017, Petitioner contacted the Department requesting assistance and inquiry regarding the VCL.
6. The Department did not receive any verification of the son's employment income.
7. On April 26, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would close effective May 1, 2017, because she failed to provide verification of her son's employment income. [Exhibit A, pp. 9-12.]
8. On May 15, 2017, Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 2-3.]

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2016), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2017), p. 1. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210, p. 1. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1.

To complete the redetermination process, the Department will generate a verification checklist (VCL) for any missing verifications. See BAM 210, pp. 17-18. For FAP cases, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 16. If the 10th day falls on a weekend or holiday, the verification will not be due until the next business day. BAM 210, p. 16. Note, the DHS-3503, Verification Checklist, should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, p. 16.

BAM 130, Verification and Collateral Contacts, further states that for FAP cases, the Department send a negative action notice when: the client indicates 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 (April 2017), p. 7.

In the present case, it was not disputed that Petitioner submitted her Redetermination. However, the issue concerning the Department was that it requested verification of the son's employment afterwards, but argued that Petitioner failed to submit the requested verification. As such, the Department initiated closure of the FAP benefits effective May 1, 2017, because she failed to submit the son's employment verification. [Exhibit A, pp. 9-12.]

In response, Petitioner testified that she received the VCL on April 7, 2017, and called and spoke to her caseworker regarding the request. Petitioner acknowledged that she called to request assistance and inquiry into the VCL. She testified that she informed her caseworker that the last time her son received employment income was in May 2016. The son receives adult home help income because he provides services for his mother, Petitioner. See BEM 501 (July 2016), p. 8, (Independent Living Services (ILS)). However, Petitioner testified that she informed her caseworker that her son only receives the income if she meets her deductible. She testified that she told the caseworker that she had no income verifications to provide, since May 2016 was the last time the son received employment income. She testified that the caseworker stated he would take care of the issue. [Exhibit 1, p. 2.] But, she testified that she later received the closure notice.

Additionally, she testified that she again spoke to her caseworker on May 15, 2017. She testified that her son did finally receive payment for his adult home help income, but the check was dated April 18, 2017. She testified that she included the check with her hearing request dated May 15, 2017, and provided a copy of the check for the evidence record. [Exhibit 1, p. 9.] She testified that she would have been unable to provide it with the VCL because it was dated after the VCL due date.

Based on the foregoing information and evidence, the undersigned finds that the Department improperly closed Petitioner's FAP benefits effective May 1, 2017, in accordance with Department policy.

First, policy states that the Department sends a negative action notice when the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. The undersigned finds that Petitioner made a reasonable effort to provide the verification before the time period had elapsed. See BAM 130, p. 7. Petitioner credibly testified that she contacted her caseworker on April 7, 2017, which was before the VCL due date. She informed her caseworker that she had no verification for the son's employment at the time because the last pay he received was in May 2016 and was seeking assistance with how she should proceed. At this moment, the undersigned finds that Petitioner is making a reasonable effort to provide the verifications as she is contacting the caseworker before the time period had elapsed and seeking instructions on how to proceed. Thus, Petitioner's FAP benefits should have not closed because she made a reasonable effort to provide the verifications before the time period had elapsed. See BAM 130, p. 7.

Second, the undersigned finds Petitioner's testimony credible that she sought assistance from her caseworker on how to proceed with the verification, but ultimately, did not receive help. Petitioner contacted her caseworker on April 7, 2017, informing him that she did not have her son's verification because the last time he received the employment income was in May 2016. Petitioner testified that based on the caseworker's response, he would take care of the issue. However, Petitioner eventually did not receive assistance with her verification inquiry because the benefits closed. The undersigned finds Petitioner's testimony credible because she provided proof that her son received employment income on April 18, 2017, but this was after the VCL due date of April 14, 2017. This bolsters Petitioner's argument that her son did not receive any income at the time of the VCL request. As such, the Department improperly closed Petitioner's FAP case because of the Department's failure to assist Petitioner with the VCL. BAM 105, pp. 9 and 15; and BAM 210, p. 1.

Accordingly, the undersigned finds that the Department improperly closed Petitioner's FAP benefits; and the Department is ordered to redetermine her FAP eligibility effective May 1, 2017, ongoing.

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 did not act in accordance with Department policy when it closed Petitioner's FAP benefits effective May 1, 2017.

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 as of May 1, 2017;
2. Redetermine Petitioner's FAP eligibility effective May 1, 2017;
3. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from May 1, 2017, ongoing; and
4. Notify Petitioner of its decision.

EJF/jaf



Eric J. Feldman
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) 335-6088; 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

Petitioner

[REDACTED]
MI [REDACTED]

DHHS

Wayne (17)

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