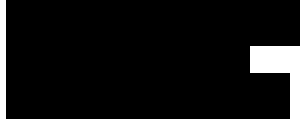




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 15, 2017
MAHS Docket No.: 17-009651
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 September 13, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Olivette Gordon, Family Independence Manager, and Wayman Neal, Family Independence Specialist.

ISSUE

1. Did the Department properly close Petitioner's Food Assistance Program (FAP) case, effective July 1, 2017?
2. Did the Department properly deny Petitioner Family Independence Program (FIP) benefits for July 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 is an ongoing FAP and FIP recipient.
2. Petitioner was sent a Notice of Potential Food Assistance Closure on June 10, 2017.
3. Petitioner's FAP benefits were closed effective July 1, 2017.
4. Petitioner was not issued FIP benefits during July 2017.

5. Petitioner submitted a Request for Hearing on July 14, 2017, regarding her FIP and FAP benefits.

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).

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

In this case, Petitioner was an ongoing FIP recipient as of June 2017. In July 2017, Petitioner was not issued FIP benefits. The Department could not provide any information as to why Petitioner was not issued FIP benefits in July 2017. The Department could not clarify if or why Petitioner's FIP case had been closed. Because the Department provided no explanation as to why Petitioner did not receive FIP benefits in July 2017, it failed to satisfy its burden showing that it acted in accordance with policy when denying Petitioner's FIP benefits in July 2017.

FAP

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 must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2017), p. 1. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1. The Department sends a Semi-Annual Contact Report to clients at the beginning of the fifth month for FAP cases assigned to a 12-month benefit period. BAM 210, p. 10. If a client fails to return a Semi-Annual Contact Report, the Department will issue a Potential Food Assistance Closure form notifying the client he/she must submit all required verifications by the last day of the month, or the case will close. BAM 210, p. 13. If the client fails to return the Semi-Annual Contact Report by the last day of the sixth month, the Department will automatically close the FAP case. BAM 210, p. 13.

In this case, Petitioner was sent a Potential Food Assistance Closure form on June 10, 2017. Petitioner was notified that the Semi-Annual Contact Report was not returned to the Department as of June 1, 2017. The notice informed Petitioner that her her FAP benefit case would be closed, effective June 30, 2017. The Department testified that Petitioner did not return the Semi-Annual Contact Report at any point, and as a result, her FAP benefit case was closed, effective July 1, 2017. Petitioner acknowledged receiving the Semi-Annual Contact Report and testified she returned the completed documentation to the Department on or around June 16, 2017, by mail. Petitioner also stated she contacted her worker several times prior to June 30, 2017, to verify that it was delivered, but never received a return phone call.

The Department bears the burden of proof to establish that it properly followed policy when taking action. The parties provided conflicting testimony in regard to the return of the Semi-Annual Contact Report. The Department provided no additional proof that Petitioner's Semi-Annual Contact Report was not received, such as a copy of the electronic case file (ECF). The ECF consists of scanned documents, arranged by category and identified by a client name, recipient ID or case number, established for a particular client group. BAM 300 (October 2016), p. 1. The ECF contains all forms, documents and other evidence to the group's current and past eligibility. BAM 300, p. 1. Therefore, the Department failed to establish it acted in accordance with policy when closing Petitioner's FAP benefit case as of July 1, 2017.

DECISION AND ORDER

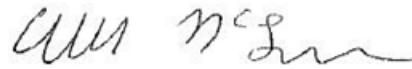
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case, effective July 1, 2017, and when it failed to issue FIP benefits for the month of July 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 benefits for July 2017, ongoing;
2. If Petitioner is eligible for FAP benefits, issue FAP supplements Petitioner was eligible to receive but did not as a result of the closure of her FAP benefit case as of July 1, 2017, ongoing;
3. If Petitioner is eligible for FIP benefits, issue FIP supplements Petitioner was eligible to receive but did not as a result of the denial of her FIP benefits for the month of July 2017; and

4. Notify Petitioner of its decision in writing.



EM/jaf

Ellen McLemore
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

DHHS

MDHHS-Wayne-55-Hearings

Petitioner



BSC4
M Holden
D Sweeney
D Shaw
B Cabanaw
E McLemore
MAHS