



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 20, 2017
MAHS Docket No.: 17-011019
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 18, 2017, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Olivette Gordon, Family Independence Manager.

ISSUE

Did the Department fail to timely process Petitioner's request of Food Assistance Program (FAP) benefits?

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 recipient of FAP benefits.
2. On March 20, 2017, Petitioner submitted a letter from DTE Energy indicating there was a power outage at his residence from March 8, 2017, through March 12, 2017.
3. A request for Food Benefit Replacement was never processed by the Department.
4. The Department did not issue a decision in writing to Petitioner regarding Food Benefit Replacement.
5. Petitioner submitted a Request for Hearing on August 14, 2017.

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 faxed the Department a letter from DTE Energy on March 20, 2017, indicating there was a power outage at his residence from March 8, 2017, through March 12, 2017. However, Petitioner had previously gone to a Department location in Macomb County to apply for food replacement as a result of the power outage. When Petitioner arrived at the Macomb County location, he was advised that he needed to complete a 601 Form to request food replacement, but they were out of those particular forms at the time. Petitioner attempted to contact his worker for assistance. Petitioner stated that by the time his worker responded, he was told he had exceeded the time limit to request the FAP benefit replacement.

Department policies states that FAP recipients may be issued a replacement of food that has been destroyed in a domestic misfortune or disaster and reported timely. BAM 502 (July 2013), p. 1. Domestic misfortunes or disasters include events which occur through no fault of the client, such as fires, floods or electrical out-ages. BAM 502, p. 1. Replacements and reauthorizations are processed only if the client reports the loss timely. BAM 502, p. 1. Timely means within 10 days if the loss is due to misfortune or disaster. BAM 502, p. 1.

The Department testified that Petitioner's request for food replacement was never processed, because he failed to submit the 601 form with the letter from DTE Energy. Department policy states a client must complete the 601 form describing the loss of food, indicating the submission of a 601 is a condition for receiving food replacement benefits. BAM 502, p. 1. However, regarding the specialist processing time period, policy also states that it must occur within 10 days of the request, or within two working days of receipt of the signed 601 form, whichever is later. BAM 502, p. 2. This language indicates a request for food replacement can be made independent of the submission of a 601 form. Department policy is contradictory as to whether a 601 form is required for Food Replacement Benefits. Also, Petitioner gave credible testimony that he made multiple attempts to timely complete the form. The Department must assist clients who ask for help in completing forms, gathering verifications, and/or understanding written correspondence sent from the Department. BAM 105 (October 2016), p. 15. Petitioner properly notified the Department that he was unable to complete the 601 form and

requested assistance. The Department failed to provide the requested assistance to Petitioner.

Because the Department failed to assist the Petitioner and Petitioner timely reported his loss, the Department did not satisfy its burden of showing that it acted in accordance with policy when failing to process Petitioner's request for FAP replacement.

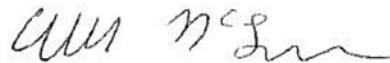
DECISION AND ORDER

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 failed to process a request for FAP replacement on behalf of Petitioner.

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. Reregister and reprocess Petitioner's request for FAP replacement.
2. If Petitioner is eligible for FAP replacement, issue supplements to Petitioner that he was eligible for but did not receive for the March 8, 2017 through March 12, 2017 power outage.
3. 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-57-Hearings

Petitioner



M Holden
D Sweeney
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MAHS