



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 29, 2017
MAHS Docket No.: 17-013613
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 November 16, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Tonya Boyd, Family Independence Manager.

ISSUE

Did the Department properly deny Petitioner's applications for 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. On [REDACTED], 2017, Petitioner submitted an application for FAP benefits. Along with the application, Petitioner submitted a copy of her bank statement.
2. Petitioner was verbally notified her application for benefits was denied due to excess assets.
3. On October 9, 2017, Petitioner submitted a duplicate copy of her bank statement that she submitted on September 22, 2017 (Exhibit A).
4. On October 9, 2017, Petitioner submitted 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, Petitioner submitted an application for FAP benefits on [REDACTED], 2017. Along with the application, Petitioner submitted a copy of her bank statement. At some point, the Department verbally advised Petitioner that her application was denied due to excess assets.

When determining asset eligibility, the Department will prospectively use the asset group's assets from the benefit month. BEM 400 (July 2017), p. 3. Asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 3. For FAP cases, the asset limit is \$5,000 or less. BEM 400, p. 5. Assets include checking and savings accounts. BEM 400, p. 15. For FAP cases, the Department will use the lowest checking, savings or money market balance in the month when determining asset eligibility. BEM 400, p. 15. Divestment occurs if a FAP group transfers assets for less than the fair market value for any of the following reasons: (i) to qualify for program benefits or (ii) to remain eligible for program benefits. BEM 400, pp. 5-6. When divestment occurs, the FAP case is closed for the relevant disqualification period. BEM 406 (October 2016), p. 2.

Petitioner submitted a list of transactions from her savings account from August 1, 2017, through [REDACTED], 2017 (Exhibit A). At the time Petitioner applied for benefits on [REDACTED], 2017, her savings account total was not in excess of \$5,000. However, during the 30 days previous to the application for benefits, Petitioner's account total exceeded \$5,000. The Department testified Petitioner's [REDACTED], 2017 application was denied because she exceeded the asset limit for a FAP case in the 30 days previous to application. The Department also testified it verbally requested proof of Petitioner's transfers to determine if there was a divestment, as Petitioner's account total as of August 3, 2017, was \$17,558.82. The Department stated Petitioner never submitted any proof of her transactions.

The Department testified Petitioner's application for FAP benefits was denied as a result of her exceeding the asset limit, not because of a divestment penalty. Therefore, the divestment issue will not be addressed. Per policy, asset eligibility exists when the

group's countable assets are less than the asset limit at least one day during the month being tested. As Petitioner's account total was below the asset limit at the time of application, she had at least one day during the benefit month below the applicable asset limit. Therefore, the Department failed to establish that it acted in accordance with policy when it denied Petitioner's application for FAP benefits.

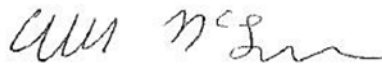
DECISION AND ORDER

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 denied Petitioner's application for FAP benefits.

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 [REDACTED], 2017 application for benefits;
2. If Petitioner is eligible for benefits, issue supplements Petitioner was eligible to receive but did not as a result of the application denial; and
3. Notify Petitioner of its FAP decision in writing.



EM/

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-15-Hearings

Petitioner



BSC4
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