



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 20, 2017
MAHS Docket No.: 17-015003
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; 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 18, 2017, from Lansing, Michigan. Petitioner was present for the hearing and represented herself. [REDACTED], Petitioner's daughter, testified as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Abby Sutter, Assistant Payment Supervisor.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective August 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 June 5, 2017, the Department generated a redetermination for Petitioner to complete and submit by July 5, 2017. [Exhibit A, pp. 3-10.]
3. On July 14, 2017, Petitioner submitted her redetermination. [Exhibit A, pp. 3-10.]
4. In the redetermination, it was reported that her daughter's employment from [REDACTED] had ended in July 2016 and that she began employment at [REDACTED]. [Exhibit A, p. 7.]

5. On August 28, 2017, the Department sent Petitioner a Verification Checklist (VCL) and Verification of Employments requesting verification of the daughter's loss of employment from [REDACTED] and verification of her current employment from AMC. The verifications were due back by September 7, 2017. [Exhibit A, pp. 11-14 and Exhibit 1, pp. 2-3.]
6. On September 7, 2017, Petitioner submitted verification of her daughter's loss of employment from [REDACTED], but she only provided a partial verification of her current employment from AMC. [Exhibit A, pp. 13-14 and Exhibit 1, pp. 2-3.]
7. On September 13, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits closed effective August 1, 2017, ongoing, because she failed to comply with the verification requirements. [Exhibit A, pp. 15-16.]
8. On November 16, 2017, Petitioner verbally requested a hearing, protesting the closure of her FAP benefits. [Exhibit A, p. 17.]

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 (July 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 tenth 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 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 did not receive the requested verification of her daughter's employment. On August 28, 2017, the Department requested verification of the daughter's loss of employment from [REDACTED] and verification of her current employment from A [REDACTED]. [Exhibit A, pp. 11-14 and Exhibit 1, pp. 2-3.] The verifications were due back by September 7, 2017. [Exhibit A, pp. 11-14 and Exhibit 1, pp. 2-3.] On September 7, 2017, Petitioner submitted verification of her daughter's loss of employment from [REDACTED], but she only provided a partial verification of her current employment from [REDACTED]. [Exhibit A, pp. 13-14 and Exhibit 1, pp. 2-3.] A review of the Verification of Employment for [REDACTED] shows only the first page is completed and the second page was not completed. [Exhibit A, pp. 13-14.] As such, the Department closed her FAP benefits due to her failure to comply with the verification requirements. [Exhibit A, pp. 15-16.]

In response, Petitioner's witness/daughter testified that she received the employment verification for AMC and brought it to her manager. The witness testified that she did sign the first page, but that the remaining information was completed by her manager on the first page. As to the second page of the employment verification, she testified that her manager could not complete it and that it would have to be given to his manager for completion. After three days had past, the witness testified she had inquired from management if the employment verification had been completed and they did provide her the form in a sealed envelope. Believing that the employment verification had been completed, it was submitted to the Department, but her daughter was unaware that the second page of the form had not been completed. During the hearing, Petitioner provided as evidence a letter from her daughter's employment dated December 17, 2017. [Exhibit 1, p. 1.]

Based on the foregoing information and evidence, the undersigned finds that the Department improperly closed Petitioner's FAP benefits effective August 1, 2017, in accordance with Department policy. Policy states that the Department sends a negative action notice when the time given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. Petitioner credibly established that she made a reasonable effort to provide verification of her daughter's employment from [REDACTED] before the time had elapsed. In fact, Petitioner submitted a partial employment verification from AMC on the due date, which shows to the undersigned that she had made a reasonable effort to submit the verification. [Exhibit A, pp. 13-14.] Furthermore, Petitioner credibly established that it was an error by her daughter's employer for failing

to complete the entire employment verification properly, as supported by the employer's letter dated December 17, 2017. [Exhibit 1, p. 1.] Overall, the evidence established that Petitioner's FAP benefits should have not closed because she a made a reasonable effort to provide verification of her daughter's' employment from AMC before the time period had elapsed. See BAM 130, p. 7.

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

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

EF/nr


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

DHHS

Theresa Ergang
121 Franklin SE
Grand Rapids, MI
49507

Kent County DHHS- via electronic mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

