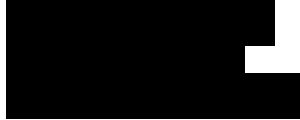




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: February 2, 2018
MAHS Docket No.: 17-016316
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 January 30, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Brandy Guinn, Assistance Payments Supervisor.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

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 FAP recipient.
2. On October 4, 2017, Petitioner completed a redetermination regarding her Medical Assistance (MA) benefits.
3. During the redetermination process for Petitioner's MA case, the Department discovered three of Petitioner's children, who were also members of her FAP group, had employment in 2017 of which the Department was not aware (Exhibits D, E, H, I, L, and M).

4. On October 10, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of wages for the previous 30 days or loss of employment for two of Petitioner's children (Exhibit F).
5. On October 10, 2017, the Department sent a Verification of Employment form for one of Petitioner's children's employment at [REDACTED]. The form had a due date of October 20, 2017.
6. On October 10, 2017, the Department sent a Verification of Employment form for one of Petitioner's children's employment at [REDACTED]. The form had a due date of October 20, 2017.
7. On October 13, 2017, the Department sent Petitioner a New Hire Client Notice for one of her children's employment at [REDACTED]. The form had a due date of October 23, 2017.
8. On October 20, 2017, Petitioner submitted both Verifications of Employment forms and the New Hire Client Notice that were completed by Petitioner herself. (Exhibits G, K and N).
9. On December 12, 2017, Petitioner requested a hearing disputing the Department's actions, as she had discovered her FAP benefit amount was displaying as \$0 in her online account.
10. On December 15, 2017, the Department sent Petitioner a Quick Note informing her that the Verifications of Employment and the New Client Hire Notice were insufficient for verification purposes. Petitioner was advised that the proofs were due by December 27, 2017, or her FAP benefits would close (Exhibit O).
11. Petitioner's FAP benefits were closed for December 2017 and January 1, 2018, ongoing. The Department did not issued a Notice of Case Action.

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 completed a redetermination regarding her MA benefit case on October 4, 2017. The Department discovered Petitioner's children had income from employment in 2017 of which the Department was not aware. Petitioner's children were members of her FAP group. The Department sent Verification of Employment forms for two of Petitioner's children and a New Client Hire Notice for another one of her children. Petitioner completed the forms herself indicating that none of her children worked at the respective employment locations. The Department considered the information insufficient to verify Petitioner's children's employment status, as the documents were completed by Petitioner, rather than the employers. As a result, Petitioner was not issued benefits in December 2017 and January 2018, ongoing.

Petitioner first argued that she did not receive adequate notice that she would not receive her FAP benefits, as a Notice of Case Action was not issued. Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (July 2017), p. 2. A notice of case action must specify the following: the action(s) being taken by the department, the reason(s) for the action, the specific manual item which cites the legal base for an action or the regulation or law itself, an explanation of the right to request a hearing and the conditions under which benefits are continued if a hearing is requested. BAM 220, p. 3. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220, p. 5. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220, p. 5. The action is pending to provide the client a chance to react to the proposed action. BAM 220, p. 5.

The Department testified that although the eligibility summary indicates Petitioner's FAP benefit case was closed for December 1, 2017 through December 31, 2017 and for January 1, 2018, ongoing (Exhibit B), her benefit case was never closed, but rather, was suspended pending the submission of the verifications of employment. On December 15, 2017, the Department sent Petitioner a Quick Note informing her that the forms that she submitted were insufficient, as they must be completed by the employers. Petitioner was advised that if she did not submit the forms completed by the employers by December 26, 2017, her FAP benefit case would close. The Department conceded a Notice of Case Action was not sent.

First, the Department's evidence is contradictory as to whether Petitioner's FAP benefits were closed or suspended. The Department testified they were suspended, but the eligibility summary and Quick Note suggest otherwise.

Second, irrespective of whether Petitioner's benefits were suspended or closed, adequate and timely notice was not sent. Benefit suspension means stopping program benefits for one month due to temporary ineligibility when allowed by policy. BEM 220, p. 14. A Notice of Case action is not required in certain circumstances. One of the exceptions includes when the FAP certification period has expired and the redetermination application was not filed. BEM 220, p. 5. In the Quick Note sent on December 15, 2017, the Department indicates Petitioner's redetermination could not be completed. However, Petitioner's FAP benefit case was not subject to redetermination,

but rather, her MA case was under redetermination. There was no evidence presented that Petitioner's FAP certification period had expired and a corresponding redetermination application was not filed, thus justifying the lack of notice. Absent from the list of exceptions to the notice requirement, is when a client's benefits are suspended or closed. The Quick Note does not satisfy all of the notice requirements set forth by policy. BEM 220, p. 3. Additionally, BEM 220 indicates benefits can be suspended for only 1 month, and therefore, the Department did not act in accordance with policy when it continued to suspend Petitioner's FAP benefits for January 1, 2018, ongoing, if that is indeed what occurred. Therefore, the Department failed to establish that it properly followed policy when it closed/suspended Petitioner's FAP benefits.

DECISION AND ORDER

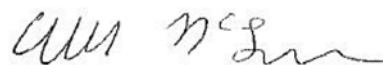
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed/suspended Petitioner's FAP benefit case.

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 benefit case effective December 1, 2017; and
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from December 1, 2017, ongoing, until notice of change is provided.

EM/cg



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

Via Email:

MDHHS-Oakland-4-Hearings
M. Holden
D. Sweeney
M. Best
EQAD
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

