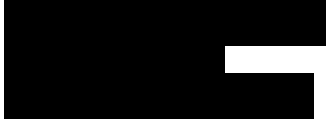




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: February 28, 2018
MAHS Docket No.: 18-000640
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 February 20, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Nicholas Woodruff, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application 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. In the application, Petitioner stated she had recently resigned her employment.
2. On November 13, 2017, the Department sent Petitioner a Verification of Employment form with a due date of November 27, 2017 (Exhibit A).
3. On December 7, 2017, Petitioner submitted a Notice to Register for Work form from the Unemployment Agency and check stubs from her former employer (Exhibit B).

4. On December 12, 2017, the Department sent Petitioner a Notice of Case Action informing her that her application for FAP benefits was denied for her failure to verify her loss of employment (Exhibit C).
5. On January 12, 2018, 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. In the application, Petitioner indicated she had been recently separated from her employment with [REDACTED]. As a result, the Department sent Petitioner a Verification of Employment requesting verification that Petitioner had been separated from employment. The form was due by November 27, 2017.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7.

Petitioner did not return the employment verification form by its due date of November 27, 2017. On [REDACTED], 2017, Petitioner had a conversation with her Department worker and was reminded that she needed to complete the verification of her loss of employment. Petitioner advised her worker that she was unable to obtain the completed form, as her relationship with her former employer had been severed. The Department testified that Petitioner was advised that any documentation from the Unemployment Agency that verified her loss of employment would be sufficient. Petitioner testified that she informed her worker of the documents she had in her possession and that he stated those documents would be sufficient to verify her loss of employment. Petitioner submitted the documents she had at that time to the Department on December 7, 2017 (Exhibit B).

The Department determined that the documents Petitioner submitted were insufficient to verify the loss of her employment. The document submitted by Petitioner from the Unemployment Agency did not contain a separation date or mention Petitioner's loss of employment in any way. As a result, the Department sent Petitioner a Notice of Case Action on December 12, 2017, informing her that her application for FAP benefits was denied for her failure to verify her loss of employment.

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 specifically advised the Department that she was unable to obtain the verification of the loss of employment from her former employer. Petitioner attempted to provide verification from an alternative source. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. It is evident that Petitioner did not indicate a refusal to provide the verification and made a reasonable effort to submit the documentation requested by the Department. Therefore, the Department failed to establish that it acted in accordance with policy when it denied Petitioner's application for FAP benefits.

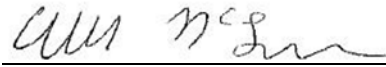
DECISION AND ORDER

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



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-Wayne-15-Hearings
M. Holden
D. Sweeney
BSC4 – Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

