



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 5, 2018
MAHS Docket No.: 18-006748
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 August 1, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Shanna Ward, eligibility specialist.

ISSUE

Did the Department properly deny Petitioner application for Food Assistance Program (FAP) benefits for failing to return verifications?

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], 2018, Petitioner applied for FAP benefits.
2. On June 5, 2018, a verification checklist was sent to Petitioner with verification due by June 15, 2018.
3. On June 19, 2018, Notice of Case Action was sent to Petitioner denying FAP benefits for failing to return verifications.

4. On [REDACTED], 2018, Petitioner filed for FAP benefits again, provided the missing verifications, and was approved for partial benefits for the rest of June of 2018 and \$352.00 per month thereafter.
5. On [REDACTED], 2018, Petitioner requested a hearing objecting to the denial of her May 30, 2018 application for FAP benefits.

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.

BAM 130 (April 2017), pp. 1-10, describes an applicant's responsibility to timely provide requested proofs.

Timeliness of Verifications

FIP, SDA, RCA, Child Development and Care (CDC), FAP

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day.

Send a negative action notice when:

- The client indicates 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

In this case, the Department provided credible evidence that it sent Petitioner a Verification Checklist on June 5, 2018, with a due date of June 15, 2018. Further, the evidence on the record shows that Petitioner did not reply to the Verification Checklist by June 15, 2018. Rather, Respondent waited until [REDACTED] 2018, before filing a new application with most of the requested information. When the Department issued the June 19, 2018, Notice of Case Action, the Department acted in accordance with Department policy based on the information available at the time.

However, BAM 115 (January 1, 2018), p. 25, states that where a client completes the application process on or before the 30th day after filing the initial application, the Department is required to re-register the application using the original application date. BAM 115, p. 25. If at that time, the Department determines Petitioner is eligible, the Department is to issue benefits using the original application date.

In this case, Petitioner provided all of the required proofs on June 27, 2018, which was within 30 days from the original May 30, 2018, application for FAP benefits. Thus, the Department erred by failing to re-register Petitioner's application from the original date of application.

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 denied Petitioner's FAP application.

DECISION AND ORDER

Accordingly:

The Department's determination regarding FAP benefits 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. Re-register Petitioner's application for FAP benefits filed [REDACTED] 2018;
2. Recalculate Petitioner's FAP benefits effective June 1, 2018;
3. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits she may thereafter be due; and
4. Issue written notice of any case action(s) in accordance with Department policy.



JM/dh

John Markey
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) 763-0155; 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

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI 48911

Ingham County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
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