



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
Date Mailed: September 11, 2018
MAHS Docket No.: 18-007657
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 28, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Brad Reno, Eligibility Specialist. During the hearing, a 25-page packet of documents was offered and admitted as Exhibit A, pp. 1-25, and a two-page document was admitted as Exhibit 1, pp. 1-2.

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 February 21, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was closing effective April 1, 2018, as a result of Petitioner's alleged failure to return requested verifications. Exhibit A, pp. 10-11.
2. After her FAP case was closed, Petitioner filed with the Department an application for FAP benefits on [REDACTED] 2018. Exhibit A, pp. 12-18.

3. On May 3, 2018, the Department issued to Petitioner a Verification Checklist requesting information relating to employment, income, expenses, and assets. Petitioner was required to provide the requested information by May 14, 2018. Exhibit A, pp. 20-21.
4. On May 15, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP application was denied for failing to provide verifications related Petitioner's employment, income, and assets.
5. On ████████ 2018, Petitioner filed with the Department a request for hearing challenging the Department's actions with respect to her FAP case.

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.

FAP CLOSURE

Clients have the right to a hearing to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. Upon receiving a request for hearing, the Department will forward the matter to the Michigan Administrative Hearing System (MAHS) for a hearing before an Administrative Law Judge (ALJ). The ALJ has jurisdiction to hear a case involving any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. BAM 600 (January 1, 2018), page 5.

However, the ALJ only has jurisdiction to hear a timely and properly submitted request for hearing. BAM 600 (January 2018), p. 6, provides in relevant part as follows:

The client or [authorized hearing representative] has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days.

The Notice of Case Action informing Petitioner of the Department's decision to close Petitioner's FAP case, effective April 1, 2018, was issued on February 21, 2018. Petitioner requested a hearing on [REDACTED], 2018, well beyond the 90-day time limit. Because Petitioner's hearing request was untimely with respect to the closure of her FAP case, whether or not the Department properly closed the case is not an issue that this ALJ has the authority to hear or issue a decision upon.

FAP APPLICATION DENIAL

However, Petitioner also objects to the Department's denial of her April 16, 2018, application. Petitioner was informed of that decision via a May 15, 2018, Notice of Case Action. As Petitioner's [REDACTED] 2018, hearing request was within 90 days after receiving the Notice of Case Action, it was timely, and the matter is ripe for adjudication.

Petitioner argues that the Department improperly denied her FAP application for failing to return requested verifications. 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 (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. 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.

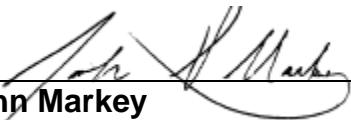
In this case, the Department issued Petitioner a Verification Checklist on May 3, 2018, with a due date of May 15, 2018. The Department requested verification of Petitioner's checking account balance, employment, income, assets, and expenses. Petitioner did not provide any of the verifications to the Department by the due date. Rather, during the hearing, Petitioner testified that she did not provide anything to the Department after receiving the May 3, 2018, Verification Checklist until she submitted some, but not all, of the requested information on June 11, 2018. Petitioner did not provide all the verifications by the due date nor did she make a reasonable effort to do so. Therefore,

the Department acted in accordance with policy when it denied Petitioner's FAP application.

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 acted in accordance with Department policy when it denied Petitioner's FAP application. Accordingly, the Department's decision is **AFFIRMED**.

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

Lindsay Miller
125 E. Union St 7th Floor
Flint, MI 48502

Genesee County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
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