



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: September 18, 2018
MAHS Docket No.: 18-007723
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's July 23, 2018, hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 13, 2018, from Lansing, Michigan. [REDACTED] Petitioner, appeared and represented himself. Shanna Ward, Eligibility Specialist, appeared and represented the Department.

One exhibit was admitted into evidence during the hearing. A 64-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly deny Petitioner's request 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] 2018, Petitioner applied for FAP benefits. Petitioner was a full-time student at the time, and he was not working.
2. On May 14, 2018, the Department issued a Notice of Case Action to Petitioner to notify him that the Department denied his request for FAP benefits because the Department determined that he was not an eligible student under BEM 245.
3. On [REDACTED] 2018, Petitioner applied for FAP benefits again. Petitioner was a full-time student, and he was working part-time.

4. On July 5, 2018, the Department requested verification from Petitioner. Petitioner provided verification which showed he only worked 32 hours during the pay period ending June 30, 2018.
5. On July 18, 2018, the Department issued a Notice of Case Action to Petitioner to notify him that the Department denied his request for FAP because (a) the Department determined that Petitioner was not an eligible student under BEM 245 and (b) the Department determined that Petitioner failed to provide all requested verification.
6. On [REDACTED] Petitioner filed a hearing request to dispute the Department's decision to deny his request for FAP benefits.
7. On [REDACTED] 2018, Petitioner applied for FAP benefits again.
8. On August 1, 2018, the Department requested verification from Petitioner with a due date of August 13, 2018.
9. In August 2018, Petitioner began working an average of 20 hours or more per week. Petitioner was still a student.
10. On August 22, 2018, the Department denied Petitioner's request for FAP benefits for failure to provide requested verification.

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 order to be eligible for FAP benefits as a student, the client must be aged 18-49, enrolled at least half-time, and (a) receiving FIP; (b) enrolled in an institution of higher education as a result of participation in: A Job Training Partnership Act (JTPA) program, a program under section 236 of the Trade Readjustment Act of 1974, or another State or local government employment and training program; (c) physically or mentally unfit for employment; (d) employed for at least an average of 20 hours per week and paid for such employment; (e) self-employed for at least an average of 20 hours per week and earning an average weekly income at least equivalent to the federal minimum wage

multiplied by 20 hours; (f) participating in an on-the-job training program; (g) participating in a state or federally-funded work study program during the regular school year; (h) providing more than half of the physical care of a group member under the age of six; (i) providing more than half of the physical care of a group member age six through eleven when adequate child care is not available to enable the person to attend class and work at least 20 hours per week or participate in a work study program; (j) a single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. BEM 245 (January 1, 2018), p. 3-5. The Department found that Petitioner was not an eligible student because Petitioner was not working 20 or more hours per week. Petitioner did not present any evidence to establish that he met any of the requirements to be considered an eligible student. Thus, the Department properly found that Petitioner was not an eligible student and denied his request for FAP benefits.

Verification is usually required at application. BAM 130 (April 1, 2017), p. 1. The Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department must allow the client 10 calendar days to provide the verification that is requested. BAM 130, p. 8. The Department must send a case action notice if the client refuses to provide the requested verification or the client fails to make a reasonable effort to provide it before the due date lapses. BAM 130, p. 8-9. The Department acted in accordance with its policies when it denied Petitioner's requests for FAP benefits for his failure to make a reasonable effort to provide requested information before the verification due dates. Petitioner received the Department's verification checklists which instructed Petitioner what to provide and when to provide it. Petitioner did not present any evidence to establish that he provided the verifications as requested.

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 act in accordance with its policies and the applicable law when it denied Petitioner's requests for FAP benefits.

IT IS ORDERED the Department's decisions are AFFIRMED.

JK/nr



Jeffrey Kemm
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- via electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
MI