



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 21, 2018
MAHS Docket No.: 18-008340
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 September 19, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearings Facilitator. During the hearing, two documents were offered and admitted as Exhibit A and Exhibit B.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for failing to return a completed Semi-Annual Contact Report?

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 April 2, 2018, the Department issued to Petitioner a Semi-Annual Contact Report in order to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Therein, the Department informed Petitioner that she must return the completed Semi-Annual Contact Report by May 1, 2018, or her FAP case would close effective May 31, 2018. Exhibit A, pp. 1-2.

3. On May 1, 2018, Petitioner attempted to fax the completed Semi-Annual Contact Report to the Department. The Department's records indicate that Petitioner's submission was missing the second page of the completed Semi-Annual Contact Report.
4. Sometime after May 1, 2018, and before May 19, 2018, the Department informed Petitioner by telephone that she still needed to provide to the Department the completed Semi-Annual Contact Report, including the second page, in order to avoid the closure of her FAP case at the end of May of 2018.
5. On ██████████ 2018, Petitioner faxed to the Department at least three pages of documents, the first of which was the first page of the completed Semi-Annual Contact Report. Exhibit B.
6. The Department found that Petitioner again failed to provide the completed Semi-Annual Contact Report and closed Petitioner's FAP case, effective May 31, 2018.
7. On ██████████ 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her FAP benefits 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.

In this case, Petitioner objects to the Department's decision to close her FAP case, effective May 31, 2018, for allegedly failing to return the completed Semi-Annual Contact Report.

Clients must cooperate with the local office in determining initial and ongoing eligibility, and this includes the completion of necessary forms. BAM 105 (January 1, 2018), p. 9. One of the forms the Department sends out when assessing ongoing eligibility for FAP benefits is the Semi-Annual Contact Report. BAM 210 (January 2018), p. 10-11. The report is considered complete when all of the sections, including the signature, are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210, p. 11. The completed Semi-Annual Contact

Report is due to the Department by the 10th day of the month in which the benefit period ends. BAM 210, p. 14. If a client has not returned the completed Semi-Annual Contact Report by the 10th day of the month its due, the Department issues a Potential Food Assistance (FAP) Closure to the client reminding the client to return the completed form and all verifications by the end of the month, or the case will close. BAM 210, p. 14.

Petitioner's benefit period was ending May 31, 2018. On April 2, 2018, the Department issued to Petitioner the Semi-Annual Contact Report to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. The document informed Petitioner that she was required to return the completed form back to the Department by May 1, 2018, in order to avoid the closure of her case, effective May 31, 2018. On May 1, 2018, Petitioner faxed what she believed to be the completed Semi-Annual Contact Report to the Department. The Department did not consider Petitioner's submission sufficient as the Department alleged that it only received the first of two pages. Thus, it was incomplete.

In a phone call with Petitioner, the Department informed Petitioner that she needed to return both pages of the document in order for the submission to be considered complete. On May 19, 2018, Petitioner faxed at least three pages of documents to the Department, including what Petitioner credibly testified were both completed pages of the Semi-Annual Contact Report. The Department again deemed Petitioner's submission insufficient because it allegedly failed to include the second page. Effective May 31, 2018, Petitioner's FAP case was closed.

The Department did not send Petitioner a Potential Food Assistance (FAP) Closure notice as required by BAM 210. The Department's failure to provide the required notice is sufficient to cause a reversal of the Department's action.

Furthermore, Exhibit B clearly shows on the top of the page that at least three pages were sent on May 19, 2018, but the Department only included one of those pages in the hearing packet. The omission of the rest of the next two pages from the hearing packet, along with Petitioner's credible testimony regarding its contents, lead to a conclusion that Petitioner, in fact, did provide the completed Semi-Annual Contact Report to the Department before the end of the month. Thus, the Department failed to follow policy when it closed Petitioner's case for failing to provide a document that she, in fact, did provide.

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 closed Petitioner's FAP case at the end of May.

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 case, effective June 1, 2018;
2. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits she may thereafter be due; and
3. 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

Jeanette Cowens
2524 Clark Street
Detroit, MI 48209

Wayne County (District 41), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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