



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: October 10, 2018
MAHS Docket No.: 18-009075
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 October 4, 2018, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Ann Olson, Hearings Coordinator. During the hearing, a 35-page packet of documents was offered and admitted as Exhibit A, pp. 1-35.

ISSUES

Did the Department properly deny Petitioner's Food Assistance Program (FAP) benefits application for allegedly failing to provide verification of assets?

Did the Department properly deny Petitioner's FAP benefits application for allegedly being ineligible as a result of being in student status?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Sometime in 2018, Petitioner filed an application for FAP benefits and was denied for some reason.
2. On [REDACTED] 2018, Petitioner filed another application for FAP benefits with the Department. Exhibit A, pp. 19-24.

3. On August 1, 2018, the Department issued to Petitioner a Verification Checklist (VCL) requesting information from Petitioner relating to Petitioner's assets. Responses were due by August 13, 2018. Exhibit A, pp. 27-28.
4. On August 3, 2018, Petitioner sent an email to a Department worker who he previously worked with on his former application. Petitioner asked the worker if the documents he submitted in filling out that application would be transferred over for the purposes of this application, and the worker said that they would. Exhibit A, p. 7.
5. On August 7, 2018, the Department conducted a phone interview with Petitioner. During the interview, Petitioner asserted that his checking account with Case closed in 2016. Exhibit A, p. 29-32.
6. On August 22, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his application for FAP benefits was being denied as a result of Petitioner's alleged failure to verify information that was asked for and because Petitioner was allegedly not an eligible student. The Notice of Case Action did not specify what information was missing. Exhibit A, pp. 33-34.
7. On [REDACTED], 2018, Petitioner submitted to the Department a request for hearing disputing the Department's denial of his 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.

Petitioner filed a hearing request in this matter to challenge the Department's denial of Petitioner's [REDACTED], 2018, application for FAP benefits. The Department alleges that Petitioner failed to make a reasonable effort to return verifications relating to his assets, specifically his checking account at [REDACTED]. Petitioner's position is that he, in fact, did provide all of the information possible when it was requested.

Verification of relevant, eligibility-related information is required at application. BAM 130 (April 2017), p. 1. For FAP, assets are highly relevant in determining eligibility for FAP benefits. BEM 400 (May 2018), p. 1. To request verification of information, the

Department sends a 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, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative action notice when: (1) the client indicates a refusal to provide a verification OR (2) the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department's August 1, 2018, VCL stated that the Department needs a "Copy of CURRENT BOA STATEMENT COPY OF BOA 4957 STATEMENT COPY OF BOA 6112 STATEMENT COPY OF CURRENT CASE 62212 STATEMENT OR STATEMENT OF CLOSURE FOR EACH ACCOUNT." The requested verifications had to be received by the Department by August 13, 2018.

On August 3, 2018, Petitioner sent an email to a Department worker asking the worker if the voluminous financial information he provided on [REDACTED], 2018, would be transferred over to cover the verifications requested through the August 1, 2018, VCL. The worker responded saying that they would be transferred. On August 7, 2018, Petitioner had a phone interview with another Department worker. He informed the worker that he provided all asset information and had not had an open account at [REDACTED] since 2016. Furthermore, Petitioner informed the Department that he was employed working at least 25 hours per week and was in college full time.

Upon reviewing the documents submitted by Petitioner, the Department deemed them to be insufficient with respect to Petitioner's alleged [REDACTED] account and issued an August 22, 2018, negative case action denying Petitioner's [REDACTED], 2018, FAP application. The Notice of Case Action informed Petitioner that his application was denied because he was in student status and because he failed to provide the requested verifications. At no point before closing Petitioner's FAP case did the Department send out another VCL that specifically identified why the timely submission of all relevant financial information by Petitioner was insufficient or incomplete.

Petitioner responded in a timely and reasonable manner to the VCL sent on August 1, 2018. Despite making a reasonably good faith effort to provide what was asked for, the Department deemed Petitioner's submission insufficient and sent a negative case action based on Petitioner's failure to provide what the Department requested.

The Department may only send negative case action where an individual indicates a refusal to provide verification or the time limit for providing the verification has passed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. Petitioner never indicated an unwillingness to provide the information, and certainly, timely providing a substantial portion of what was asked for but not quite providing enough qualifies as a reasonable effort to provide the information. As neither

of the conditions for sending a negative case action were present, the Department was precluded from sending a negative case action.

This was, at best, simply a case where the information concerning an eligibility factor (assets) was incomplete and needed further verification pursuant to the verification policy, which requires the sending of a VCL unless the effort was not reasonable, or the client expressed a refusal to provide the information. Petitioner's effort was reasonable, as evidenced by his testimony and the documentary evidence presented during the hearing, and he did not express a refusal or unwillingness to provide the requested information. Thus, the Department violated policy by sending the negative action notice and denying Petitioner's FAP application.

However, the during the hearing, the Department conceded that the information requested was not material as the account had been closed more than two years before the application. At no point did Petitioner report that he had an open account with [REDACTED], nor did the Department provide any information showing that he did have an open account with [REDACTED]. Rather, the Department witness testified that this in no way should have even been asked about as it was so far in the past. Likewise, the Department witness acknowledged that the Department's finding regarding student ineligibility was also erroneous. Petitioner worked more than 20 hours per weeks and should not have been deemed an ineligible student. Because the Department denied Petitioner's FAP application on improper grounds, the Department's decision is reversed.

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 FAP application for Petitioner's alleged failure to submit required verifications and allegedly being an ineligible student.

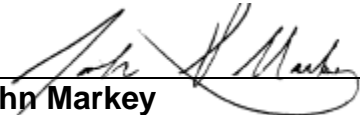
Accordingly, the Department's decision is **REVERSED**.

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. Reprocess Petitioner's FAP application back to the date of application;
2. If Petitioner is eligible for FAP benefits, award Petitioner FAP benefits, including any appropriate supplements for the time between application and the determination of eligibility; and

3. Notify Petitioner in writing of its decision.

JM/hb



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

Ann Olson
1050 Independence Blvd
Charlotte, MI 48813

Eaton County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
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