



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: November 20, 2018
MAHS Docket No.: 18-010592
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 November 13, 2018, from Lansing, Michigan. Petitioner personally appeared and testified. The Department of Health and Human Services (Department or Respondent) was represented by Richkelle Courney, Hearings Facilitator (HF) who did not have personal knowledge of this case.

ISSUE

Did the Department properly deny Petitioner's applications for assistance for Food Assistance Program (FAP), Child Day Care (CDC), and vehicle assistance on the grounds that Petitioner failed to comply with Respondent's verification request?

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] [REDACTED] 2018, Petitioner filed a reapplication with Respondent for FAP and CDC. Petitioner also indicated at the administrative hearing that she requested assistance for a vehicle voucher.
2. On September 14, 2018, Respondent issued a Verification Checklist, with verifications due by September 24, 2018. Exhibit A.15.

3. On October 3, 2018, Respondent issued a Notice of Case Action denying Petitioner's FAP and CDC on the grounds that Petitioner failed to file the required verifications. Exhibit A.5-6.
4. On October 1, 2018, Petitioner filed a hearing request stating in part: "...I'm requesting this because every program I have filled out I have repeatedly been denied and I have cooperated with child support, I turn in every form, and my case worker R. Brown says she never gets them or just deny my applications and she says I'm not qualified." Exhibit A.3.
5. At the administration hearing R. Brown failed to appear. The HF who appeared on behalf of Respondent testified that in fact Petitioner had in fact not only turned in all necessary verifications, but that they were all timely. The computer system had registered and shows that all were received by the September 14, 2018, due date.
6. At the time of Petitioner's hearing request, Petitioner had not filed an application for vehicle repair.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

In this case, applicable policy and procedure is found at BAM 115, 200; BEM 500, 400.

In all eligibility determinations, the applicant, here Petitioner, has the burden of proof by a preponderance of evidence.

Here the Respondent, R. Brown denied on the grounds that Petitioner failed to return requested verifications. Unrefuted evidence of record is that in fact, Petitioner returned all requested verifications by the September 14, 2018, due date. Petitioner had met her burden of proof. This evidence was unrefuted. Respondent's denial is not supported by evidence of record as to the FAP and CDC programs.

However, with regard to the request for vehicle repair, as of the date of Petitioner's hearing request, Petitioner had not filed an application and thus there is no jurisdiction to review any action Respondent has not issued a disposition on; such is premature.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it denied Petitioner's FAP and CDC. The Department stipulated at the administrative hearing that all requested verifications were received timely and entered into the computer system. Respondent cannot prevail when it clearly erred.

DECISION AND ORDER

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

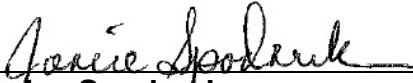
THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstated Petitioner's September 13, 2018, FAP and CDC application date, and
2. Process Petitioner's September 13, 2018 FAP and CDC application in accordance with Respondent's policy and procedure, and
3. Issue written notice to Petitioner as to the outcome of the September 13, 2018, reprocessing of Petitioner's applications, and
4. Issue supplemental benefits to Petitioner to which she may be entitled, and
5. Indicate on the new notice that Petitioner has a right to an administrative hearing for 90 days from the date of the new notice should she dispute the outcome of the

new assessment or dispute the calculations of her FAP and CDC benefits, relating back to her September 13, 2018, application date for FAP and CDC.

IT IS SO ORDERED.

JS/hb



Janice Spodarek
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

Tara Roland 82-17
8655 Greenfield
Detroit, MI 48228

Wayne County (District 17), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

L. Brewer-Walraven via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]