



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 21, 2018
MAHS Docket No.: 18-011842
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 December 17, 2018, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's 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. Petitioner is an ongoing recipient of FAP benefits.
2. On July 11, 2018, the Department sent Petitioner a New Hire Form as it believed she had obtained new employment.
3. The New Hire Form was due to be completed and returned by July 23, 2018.
4. On August 28, 2018, the New Hire Form was returned to the Department.
5. Also, on [REDACTED] 2018, Petitioner applied for several benefit programs including FAP benefits.

6. On August 29, 2018, the Department sent Petitioner a Verification of Employment and a Verification Checklist requesting information, which was approximately 10 days later.
7. On September 14, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her FAP benefits were closed for failure to return requested verification.
8. On ██████████ 018, Petitioner submitted a new application for FAP benefits.
9. On October 3, 2018, the Department sent Petitioner a Verification of Employment and a Verification Checklist requesting information which was approximately 10 days later.
10. On October 16, 2018, the Verification of Employment was received by the Department.
11. On October 25, 2018, Petitioner submitted paystubs for the month of October.
12. On October 30, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that she had been approved for FAP benefits in the amount of \$14.00 for October 2018 and \$15.00 for November 2018.
13. On November 8, 2018, Petitioner filed a Request for Hearing disputing the Department's actions.

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, the Department testified that it sent Petitioner a Notice of Case Action on September 14, 2018 notifying her that her FAP benefits will close for failure to return verification. The closure was based upon the failure to receive the Verification of Employment which was sent on August 29, 2018. However, the Department acknowledged that it received a completed Verification of Employment on August 28, 2018. As such, the Department improperly closed Petitioner's FAP benefits.

Petitioner testified that the only benefits that she is disputing are the benefits received in October 2018. Petitioner reapplied for benefits on [REDACTED], 2018. As a result of the new application the Department redetermine her eligibility for FAP benefits. In redetermining the benefits, the Department use Petitioner's actual income from October 2018. Petitioner argued that she should not have been required to complete a new application and any change reported regarding employment should not have affected her benefits prior to November 2018.

While it is true that Petitioner's October benefits may not have been affected if she had simply submitted a change report notifying the Department of her new employment, Petitioner did in fact submit a new application. As such, the Department now has Petitioner's actual income for October 2018.

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 not act in accordance with Department policy when it closed Petitioner's FAP benefits.

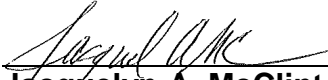
DECISION AND ORDER

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. Redetermine Petitioner's eligibility for FAP benefits for October 2018;
2. If Petitioner was eligible for supplements, issue FAP supplements that Petitioner was eligible to receive but did not; and
3. Notify Petitioner in writing of its decision.

JAM/tlf



Jacquelyn A. McClinton
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

Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]