



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: December 28, 2018
MAHS Docket No.: 18-012136
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 20, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Karen Brown-Shelton, Assistance Payments Worker.

ISSUE

Did the Department properly closed Petitioner's Food Assistance Program (FAP) case due to failure to provide required verification?

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 a recipient of FAP benefits with a redetermination due in October 2018.
2. On August 17, 2018, the Department Caseworker sent Petitioner a New Hire Client Notice, DHS 4635, due back on August 27, 2018. Department Exhibit 1, pgs.14-15.
3. On October 2, 2018, the Department Caseworker conducted the telephone interview for FAP benefits with Petitioner. Department Exhibit 1, pg.19.

4. On October 2, 2018, the Department Caseworker sent Petitioner a Notice of Case Action, DHS 1605, that Petitioner was approved for FAP benefits of \$578 per month for a household size of five. Department Exhibit 1, pgs. 22-25.
5. On November 1, 2018, Petitioner did not receive her FAP benefits for the month.
6. On November 21, 2018, the Department received a hearing request from Petitioner, contesting the Department's negative action.

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 was a recipient of FAP benefits. She successfully completed her redetermination review with her Department Caseworker on October 2, 2018. Petitioner asked her Department Caseworker if she needed anything else. The Department Caseworker stated that she had everything that she needed. The Department Caseworker sent out, on October 2, 2018, a Notice of Case Action, DHS 1605, that Petitioner was approved for FAP benefits of \$578 per month for a household size of five, effective November 1, 2018. Department Exhibit 1, pgs. 22-25. However, the Department Caseworker had not received the New Hire Client Notice, DHS 4635, due back on August 27, 2018. Department Exhibit 1, pgs.14-15. BAM 220 and 807.

During the hearing, Petitioner stated that she mailed the DHS 4635 to the Department Caseworker on August 22, 2018 through regular mail. She did not call the Department Caseworker to see if she received the form nor did she check her electronic case file to see if the form had been received. However, she did ask her Department Caseworker if she was missing anything on October 2, 2018. She did not specifically mention the DHS 4635, but it was implied. The Department Caseworker stated that she had everything she needed and recertified her FAP case for another year. However, the DHS 4635 was not received, which resulted in her FAP case closing on November 1, 2018. If the Department Caseworker had informed Petitioner of the missing form on October 2, 2018, she would have had more than enough time to submit the form and the required verification by October 31, 2018, before her FAP benefits ended.

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 allowed Petitioner's FAP benefits to end after recertifying her FAP benefits for another year when she was missing the DHS 4635.

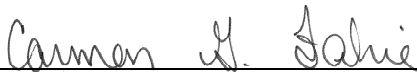
DECISION AND ORDER

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 of initiating a redetermination of Petitioner's eligibility for FAP retroactive to her FAP benefit ending date of October 31, 2018, by sending out a new Verification Checklist, DHS 3503 with an attached New Hire Client Notice, DHS 4635, for Petitioner to provide the required verification within 10 days.

Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and issue Petitioner any retroactive benefits she/he may be eligible to receive, if any.

CF/dh



Carmen G. Fahie
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

Denise McCogge
27260 Plymouth Rd
Redford, MI 48239

Wayne County (District 15), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]