



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 19, 2019
MAHS Docket No.: 19-001704
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, an in-person hearing was held on April 18, 2019, in Inkster, Michigan. Petitioner appeared by telephone and was represented by attorney [REDACTED], who appeared in person. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator, and Lisa Granderson, Assistance Payments Supervisor. During the hearing, a 23-page packet of documents was offered and admitted as Exhibit A, pp. 1-23.

ISSUE

Did the Department properly deny Petitioner's application for 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. On [REDACTED], 2019, Petitioner submitted to the Department an application for FAP benefits. On the application, Petitioner was asked whether she needed any communication assistance. In response, Petitioner indicated that she needed a Spanish interpreter. In addition, under sections titled "Preferred Spoken Language" and "Preferred Written Language," Petitioner wrote "Spanish." Exhibit A, pp. 5-12.

2. On January 25, 2019, the Department issued to Petitioner an English-language Verification Checklist (VCL) requesting information necessary for determining Petitioner's eligibility for FAP benefits. Petitioner was required to provide the required verifications by February 4, 2019. Exhibit A, pp. 13-14.
3. On February 6, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her application for FAP benefits was denied for failing to provide the verifications requested in the January 25, 2019, VCL. Notably, this document was also in English. Exhibit A, pp. 15-20.
4. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's denial of her FAP application. The request stated "The 2-6-19 Notice of case Action is in English and I requested communication from MDHHS in Spanish only. My family is eligible for Food Stamps." Exhibit A, pp. 3-4.

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 submitted a [REDACTED] 2019 application for FAP benefits to the Department. On the first page of the application, the Department included a section for individuals to inform the Department of any communication issues. In response, Petitioner indicated that her written and spoken language was Spanish and that she needed interpretation services when communicating with the Department. Even before the application was filed, Department records reflect that the Department was aware of Petitioner's inability to communicate in English. However, for some reason, the VCL requesting information and the Notice of Case Action denying the application for failing to provide the requested information were both entirely in English. Petitioner filed a hearing request and argued that her application should not have been denied because the documents were not issued in Spanish.

The Department must assist clients who ask for help in completing forms, gathering verifications, and/or understanding written correspondence from the Department; particular sensitivity must be shown to clients who are illiterate, disabled, or not fluent in English. BAM 105 (January 2019), p. 15. For a client with limited English proficiency,

the Department will take reasonable steps to provide services and information in appropriate languages to ensure that the client is effectively informed, notified of his or her rights and responsibilities, and can effectively participate in and benefit from Department programs, services, and activities. BAM 105, p. 16.

The Department was on notice no later than July 2017 that Petitioner did not speak English and needed written correspondence to be issued in Spanish. She reiterated that fact on the [REDACTED] 2019, FAP application. Under such circumstances, Department policy requires that the Department take that fact into consideration when communicating with Petitioner. The Department witnesses conceded at the hearing that the Department failed to satisfy its duty in that regard by sending the VCL in English. Consequently, Petitioner's failure to respond to that document, which was in a language she was known not to understand, is not a valid reason to deny her application for FAP benefits. Thus, the Department's denial on that basis cannot stand and must be set aside.

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 denied Petitioner's [REDACTED], 2019, application for FAP benefits on the basis of an alleged failure to return requested verifications.

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. Reregister and process Petitioner's [REDACTED], 2019, application for FAP benefits;
2. If any eligibility-related factors remain unclear, inconsistent, or contradictory, properly request verifications from Petitioner pursuant to Department policy and in a manner reasonably calculated to inform Petitioner of what is being requested;
3. Determine Petitioner's eligibility for FAP benefits;
4. If Petitioner is entitled to additional benefits, promptly issue to Petitioner a supplement; and

5. Notify Petitioner in writing of its decisions.

JM/cg



John Markey
Administrative Law Judge
for Robert Gordon, 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

**Counsel for Petitioner –
Via First-Class Mail:**

Marie K. DeFer
2727 Second Ave, Suite 301
Detroit, MI 48201

Via Email:

MDHHS-Wayne-19-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

**Petitioner –
Via First-Class Mail:**

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