

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 15-021268
Issue No.: 3011
Agency Case No.: ██████████
Hearing Date: January 07, 2016
County: Macomb-District 20
(Warren)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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; 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 January 7, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. Her son ██████████ appeared to assist with translation. The Department of Health and Human Services (Department) was represented by ██████████, backup hearing facilitator.

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 October 2, 2015, Petitioner applied for FAP benefits.
2. On October 28, 2015, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of her son's wages and checking account and requesting that she contact the Office of Child Support (OCS) by November 9, 2015.
3. Petitioner timely submitted the requested wages and checking account statement (Exhibit A).

4. On November 12, 2015, the Department sent Petitioner a Notice of Case Action denying her FAP application due to her failure to verify earned income, checking account, and compliance with OCS (Exhibit B).
5. On November 13, 2015, 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.

Petitioner disputed the denial of her October 2, 2015 FAP application. In the November 12, 2015 Notice of Case Action, the Department notified Petitioner that her FAP application was denied because she had failed to verify income, checking account and child support cooperation. At the hearing, the Department testified that Petitioner had in fact timely submitted verification of income and checking account but had not timely verified child support cooperation.

Cooperation with OCS is a condition to FAP eligibility. BEM 255 (April 2015), pp. 1, 9. When a client applies for FAP benefits and the Department is aware of the client's child support noncooperation, the Department must send the client a VCL giving the client ten days to cooperate with OCS. BEM 255, p. 12. The client is disqualified from the FAP group for a one-month minimum if the client fails to cooperate on or before the VCL due date when all of the following are true: (i) there is a begin date of noncooperation, (ii) there is not a subsequent comply date, (iii) support/paternity action is still a factor in the child's eligibility, and (iv) good cause has not been granted nor is a claim pending. BEM 255, p. 12. A support disqualification results in the removal of the noncooperative individual from the FAP group, not group ineligibility if the remaining group members are otherwise eligible. BEM 255, p. 14.

In this case, the Department notified Petitioner of her obligation to contact OCS in the VCL sent to her on October 28, 2015. The VCL due date was November 9, 2015. The Department testified that Petitioner complied with her OCS reporting obligations on

November 13, 2015, after the VCL due date and after the November 12, 2015 Notice of Case Action notifying Petitioner that her FAP application was denied. Petitioner did not present any evidence to dispute the Department's testimony concerning her compliance date. Because Petitioner did not comply with her OCS reporting obligations prior to the denial of the application, Petitioner was a disqualified member of her FAP group.

However, even if Petitioner was disqualified from her FAP group, there was at least one remaining FAP group member identified in the VCL and possibly additional group members not identified at the hearing. Because the Department acknowledged that the additional verifications requested in the VCL were received and the only basis for the denial was Petitioner's failure to cooperate with OCS, the Department did not act in accordance with Department policy when it failed to process Petitioner's application to determine the remaining group members' eligibility for FAP. If Petitioner's remaining FAP group members are eligible for FAP, then Petitioner would be added back to the group once she completed her one-month disqualification.

If Petitioner's remaining FAP group members are ineligible as of the October 2, 2015 application, Petitioner is advised that she can reapply at any time and eligibility can be reassessed based on the group's circumstances at the time of application.

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 FAP application.

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 reprocess Petitioner's October 2, 2015 FAP application, excluding Petitioner as a disqualified FAP group member;
2. If the application is approved, add Petitioner back in as a qualified FAP group member once she serves her one-month disqualification;

3. Issue supplements to Petitioner for FAP benefits her group is eligible to receive, if any, from October 2, 2015 ongoing; and
4. Notify Petitioner in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/8/2016**

Date Mailed: **1/8/2016**

ACE / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]