

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-022819
Issue No.: 1001 1003 3001
Agency Case No.: [REDACTED]
Hearing Date: January 25, 2016
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 25, 2016, from Detroit, Michigan. Petitioner appeared and was represented by [REDACTED] Petitioner's "significant other." The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist, and [REDACTED], hearing facilitator.

ISSUE

The first issue is whether MDHHS properly terminated Petitioner Family Independence Program (FIP) eligibility due to Petitioner's failure to return redetermination documents.

The second issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) group composition.

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 an ongoing FIP and FAP benefit recipient.
2. Petitioner's FIP eligibility was scheduled to expire, effective December 2015.
3. As of October and December 2015, Petitioner lived with his daughter, [REDACTED] and two other minor children.

4. On [REDACTED], MDHHS determined Petitioner's FIP eligibility to be \$439/month, effective November 2015, in part, based on a benefit group that excluded Tyeisha.
5. On [REDACTED] MDHHS determined Petitioner's FAP eligibility to be \$439/month, effective October 2015, and \$322/month, effective November 2015, in part, based on a benefit group that excluded Tyeisha..
6. On or near [REDACTED], Petitioner submitted a Redetermination to MDHHS.
7. On [REDACTED], MDHHS terminated Petitioner's FIP eligibility, effective December 2015.
8. On [REDACTED], Petitioner requested a hearing to dispute FAP and FIP eligibility.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Prior to a substantive analysis of Petitioner's hearing request, it should be noted that Petitioner noted special arrangements in order to participate in the hearing. Petitioner indicated he had a "literately [sic] issue" and that he needed an AHR to attend the hearing. Petitioner's AHR attended the hearing and Petitioner testified no further special arrangements were needed.

Petitioner requested a hearing, in part, to dispute a termination of FIP eligibility. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 5-6). The Notice of Case Action indicated the termination was due to Petitioner's alleged failure to return redetermination documents. MDHHS indicated the same.

The Michigan Department of Health and Human Services must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2015), p. 1. The redetermination process includes thorough review of all eligibility factors. *Id.* A complete redetermination is required at least every 12 months. *Id.* Bridges sets the redetermination date according to benefit periods... *Id.*

For all programs, Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due.

Id., p. 6. A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. *Id.*, p. 10. [For FIP,] if the redetermination packet is not logged in by the negative action cut-off date of the redetermination month, Bridges generates a DHS-1605, Notice of Case Action, and automatically closes the EDG. *Id.*, p. 11.

Petitioner's AHR testified she personally mailed Petitioner's redetermination documents to MDHHS on an unspecified date near [REDACTED]. Petitioner's AHR's testimony recalled she personally dropped off the envelope at a nearby post office. Documentation of the mailing was not presented.

MDHHS is known to store submitted client documentation electronically. MDHHS testimony indicated Petitioner's electronic case file was last checked on [REDACTED], [REDACTED] (the date MDHHS drafted their Hearing Summary). During the hearing, MDHHS was asked to recheck Petitioner's electronic case file. MDHHS responded that the hearing computer was not functional at that time.

The testimony from both sides seemed credible. The testimony from both sides was also unverified. In the present case, it is more troublesome that MDHHS was unable to check Petitioner's case file rather than Petitioner's inability to verify a mailing.

It is also helpful for Petitioner that a hearing was requested before the expiration of the FIP benefit period. This fact helps establish that Petitioner responded relatively quickly to the notice warning of closure. Generally, clients who are responsive to a threatened closure will be responsive in submitting redetermination documents.

It is found Petitioner timely submitted a Redetermination to MDHHS. Accordingly, the corresponding termination is found to be improper.

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing, in part, to dispute the removal of his daughter (Tyeisha) from his FAP and FIP benefit group. Petitioner's AHR testified specifically disputed the removal of Petitioner's daughter as it affected FAP eligibility from October 2015 and FIP eligibility from November 2015.

Bridges will help determine who must be included in the Food Assistance Program (FAP) group prior to evaluating the non-financial and financial eligibility of everyone in the group. BEM 212 (October 2015), p. 1. Food Assistance Program group composition

is established by determining all of the following (see *Id.*): who lives together, the relationship(s) of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the person(s) resides in an eligible living situation.

Group composition is the determination of which individuals living together are included in the FIP eligibility determination group/program group and the FIP certified group. BEM 210 (July 2015), p. 1. The certified group means those individuals in the FIP EDG who meet all non-financial FIP eligibility factors. *Id.*

MDHHS testimony indicated Petitioner's child's residence was questionable based on circumstances reported by Petitioner. For example, it was not disputed Petitioner needs someone to help him complete daily activities. MDHHS thought it dubious that Petitioner could care for three minor children without being able to care for himself. The consideration is not particularly insightful into learning the residence of Petitioner's child.

MDHHS presented [REDACTED] "student profile" dated [REDACTED]. MDHHS testimony indicated the document was obtained from Petitioner's child's school. The address on the form indicated an address different from Petitioner.

MDHHS essentially alleged Petitioner's child lived with her mother, not her father. Had MDHHS verified a school address that currently reflected Petitioner's child's mother's address, the MDHHS allegation would be well-supported. MDHHS did not allege the address on the school document matched Petitioner's child's mother's current address.

Petitioner's AHR testified she is the mother of 8 children. Petitioner's AHR testified she resides with three children. Petitioner's AHR testified three of her other children reside with Petitioner at a separate residence. Petitioner's AHR testified the address listed on Tyeisha's school form matches her previous address. Petitioner's AHR also testified that her child moved back with her father in 2014 after her residence was flooded. MDHHS did not rebut any of Petitioner's AHR's testimony. A school document verifying Petitioner's daughter lived with her mother at a previous address is not persuasive in establishing the child currently lives with her mother.

Based on presented evidence, it is found MDHHS failed to establish that Petitioner's daughter did not live with him. Accordingly, the FIP and FAP eligibility determinations which excluded his daughter were improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP and FIP eligibility. It is further found MDHHS improperly terminated Petitioner's FIP eligibility. It is ordered that

MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) redetermine Petitioner's FAP eligibility, effective October 2015, in part, by including Petitioner's daughter, Tyeisha, as a group member;
- (2) redetermine Petitioner's FIP eligibility, effective November 2015, in part, by including Petitioner's daughter, Tyeisha, as a group member;
- (3) initiate a redetermination of Petitioner's FIP eligibility, effective December 2015, subject to the finding Petitioner timely submitted redetermination documents.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/2/2016**

Date Mailed: **2/2/2016**

CG / hw

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.

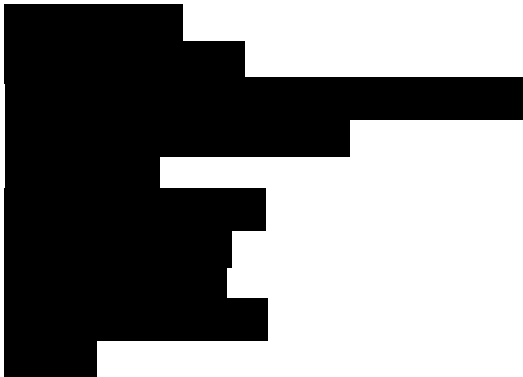
A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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:

A large black rectangular redaction box covers the names and contact information of the recipients listed in the 'cc:' field.