

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

IN THE MATTER OF:



MAHS Reg. No.: 15-023902
Issue No.: 3002
Agency Case No.: [REDACTED]
Hearing Date: February 10, 2016
County: Wayne (57)

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 February 10, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], manager.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

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 FAP benefit recipient.
2. On [REDACTED], MDHHS mailed Petitioner a New Hire Client Notice.
3. On [REDACTED], MDHHS initiated a termination of Petitioner's FAP eligibility, effective December 2015, due to Petitioner's failure to verify income.
4. On [REDACTED], Petitioner submitted a New Hire Client Notice to MDHHS.
5. MDHHS did not stop the pending FAP termination.

6. On [REDACTED], Petitioner requested a hearing to dispute the termination of FAP benefits.

CONCLUSIONS OF LAW

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 requested a hearing to dispute a termination of FAP benefits. A Notice of Case Action (Exhibit 1, pp. 1-3) indicated a FAP termination to be effective December 2015. The written notice also indicated the basis for termination was a failure by Petitioner to verify income. MDHHS testimony clarified Petitioner failed to verify employment with a temp agency despite a written request via a New Hire Client Notice.

The Michigan Department of Health and Human Services (MDHHS) routinely matches recipient data with other agencies through automated computer data exchanges. BEM 807 (July 2015), p. 1). The State New Hires Match is a daily data exchange of information collected by the Michigan New Hire Operations Center and obtained through the Office of Child Support. *Id.* State New Hires information is used to determine current income sources for active MDHHS clients. *Id.* [MDHHS is to] contact the client immediately if the employment has not been previously reported. *Id.* [MDHHS is to] request verification by generating a DHS-4635, New Hire Notice, from Bridges.

It was not disputed MDHHS mailed Petitioner a New Hire Client Notice (Exhibit 1, pp. 4-5) requesting information on Petitioner's employment with a temp agency. The due date for return was [REDACTED]. It was not disputed that Petitioner did not return the document to MDHHS by the due date. It was also not disputed that Petitioner did not return the New Hire Client Notice until after [REDACTED] (the date MDHHS initiated a termination of Petitioner's FAP eligibility). MDHHS first argued that the termination was proper because Petitioner's untimely submitted the New Hire Client Notice.

There are two types of written notice: adequate and timely. BAM 220 (October 2015), p. 2. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). *Id.* A timely notice is mailed at least 11 days before the intended negative action takes effect. *Id.*, p. 4. The action is pended to provide the client a chance to react to the proposed action. *Id.* Timely notice is given for a negative action unless policy specifies adequate notice or no notice. *Id.*

MDHHS policy goes on to list circumstances when adequate notice is apt (e.g. application denials, benefit increase, the FAP group is leaving the state...). A failure to

respond to a New Hire Client Notice is not a known exception to giving timely notice. Because Petitioner submitted a New Hire Client Notice before the negative action was effective, MDHHS appears to have erred by not processing Petitioner's tardily returned (but timely enough) New Hire Client Notice.

MDHHS testimony indicated Bridges (their database) does not allow the processing of untimely returned New Hire Client Notices. It is not known what functions Bridges allows. It is known that functions MDHHS can or cannot perform in their database does not dictate whether MDHHS complied with their policies.

MDHHS made two additional arguments to support that the FAP termination was proper. Both arguments concerned the adequacy of Petitioner's submission.

MDHHS alleged Petitioner failed to provide specific pay information for the employer requested on the New Hire Client Notice. MDHHS also alleged Petitioner failed to submit pay stubs with her New Hire Client Notice. The MDHHS arguments appeared insincere because neither allegation was referenced within the Hearing Summary; nevertheless, the allegations will be considered.

The New Hire Client Notice requested information for a temp agency job of Petitioner's. Petitioner wrote a statement on her New Hire Client Report that she did not work for the temp agency anymore. Petitioner completed her New Hire Client Notice for a job she acquired after she worked for a temp agency.

The New Hire Report reads "**SAVE ALL PAY STUBS FROM THE REPORTED EMPLOYMENT.** Your specialist will be requesting your pay stubs for your next eligibility review. *If you already received a pay check, return the pay stubs with the completed form.*" Petitioner testimony did not allege that she submitted pay stubs with her New Hire Report. Thus, there is some basis to support a termination of FAP eligibility.

Petitioner testimony indicated she worked for only 2 weeks for the temp agency-sometime in either July or August 2015. During the hearing, MDHHS checked Petitioner's wage history which indicated Petitioner received approximately \$500 in earnings from the job. MDHHS testimony also indicated Petitioner did not have 4th quarter earnings from the employment. Petitioner's wage history appears to be consistent with Petitioner's testimony concerning temp agency dates of employment.

It must be questioned why MDHHS needed pay stubs from Petitioner's temp agency employment after Petitioner reported her job stopped. If the income was not ongoing, then MDHHS would have no known reason to factor the income in Petitioner's ongoing FAP eligibility. This conclusion is consistent with unrebutted Petitioner testimony that she discussed the job stoppage with her specialist, who advised Petitioner that she needn't bother verifying the income. If MDHHS needed Petitioner's pay information from

the temp agency, MDHHS either did or could have procured the information from Petitioner during the discussion with Petitioner about her job stoppage.

It is found Petitioner sufficiently reported temp agency employment information to MDHHS. Accordingly, the corresponding FAP eligibility termination was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP eligibility. It is ordered that MDHHS begin the following actions, in accordance with policy and this hearing decision, within 10 days of the date of mailing of this decision:

- (1) reinstate Petitioner's FAP eligibility, effective December 2015, subject to the finding MDHHS had no need to verify pay information from reported stopped employment; and
- (2) supplement Petitioner for any benefits improperly not issued.

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



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

Date Signed: **February 19, 2016**

Date Mailed: **February 19, 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:

