



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 21, 2016
MAHS Docket No.: 16-003592
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on April 19, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED]. [REDACTED] (Assistance Payments Supervisor) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] (Eligibility Specialist) and [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department of Health and Human Services (Department) properly deny the Petitioner's Food Assistance Program (FAP) application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner testified that he was a Food Assistance Program (FAP) recipient through November of 2015, when his benefits were terminated.
2. On January 8, 2016, the Department received the Petitioner's Food Assistance Program (FAP) application. Exhibit 1.
3. On January 8, 2016, the Department sent the Petitioner a Verification Checklist (DHS-3503) requesting verification of his bank accounts by January 19, 2016. Exhibit 8.

4. On February 5, 2016, the Department notified the Petitioner that it had denied his Food Assistance Program (FAP) application. Exhibit 7.
5. On March 15, 2016, the Department received the Petitioner's request for a hearing protesting the denial of his Food Assistance Program (FAP) application and the Department's determination of his benefit group size and composition. Exhibit 6.

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.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
Department of Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2015), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2015), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (April 1, 2016), pp 1-7.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (July 1, 2015), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (January 1, 2016), pp 1-9.

The Petitioner testified that his FAP benefits closed in November of 2015 when he was receiving those benefits as a group of three including his two children. The Petitioner failed to establish that his March 15, 2016, request for a hearing is timely with respect to that closure and therefore it is not relevant with respect to this hearing decision.

On January 8, 2016, the Department received the Petitioner's FAP application and requested verification of his bank accounts as required by Department policy. No evidence was presented on the record that the Petitioner supplied the Department with sufficient evidence of his bank accounts, a countable asset, in a timely manner. Therefore, the Department notified the Petitioner on February 5, 2016, that his application had been denied.

The Petitioner testified that the Department has improperly excluded his two children from his FAP benefit group. The Petitioner testified that he has custody of his children during the week and their mother has custody of them on weekends.

The primary caretaker is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period. When a child spends time

with multiple caretakers who do not live together such as joint physical custody, parent/grandparent, etc., the Department will determine a primary caretaker. Only one person can be the primary caretaker and the other caretaker(s) is considered the absent care-taker(s). The child is always in the FAP group of the primary care-taker. If the child's parent(s) is living in the home, he/she must be included in the FAP group. The Department will determine primary caretaker by using a twelve-month period. The twelve-month period begins when a primary caretaker determination is made. If the child spends virtually half of the days in each month, averaged over a twelve-month period with each caretaker, the caretaker who applies and is found eligible first, is the primary caretaker. The other caretaker(s) is considered the absent caretaker(s). Department of Health and Human Services Bridges Eligibility Manual (BEM) 212 (October 1, 2015), pp 3-4.

In this case, whether the Petitioner meets the definition of his children's primary caretaker is not relevant to this hearing because it was not the basis for the denial of his FAP application.

The Petitioner questioned why the Department required additional verification of his bank accounts when he had provided verification of these accounts previously.

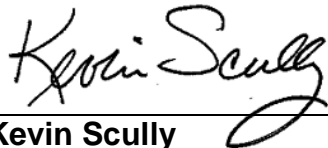
However, the Department established that it was acting in accordance with policy with respect to a new application for FAP benefits by an applicant that was not currently receiving those benefits.

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 acted in accordance with Department policy when it denied the Petitioner's Food Assistance Program (FAP) application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

KS/las



Kevin Scully
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) 335-6088; 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



Petitioner

