



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 20, 2016
MAHS Docket No.: 16-005176
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 May 18, 2016, from Lansing, Michigan. The Petitioner, [REDACTED], appeared and testified. The Department of Health and Human Services (Department) was represented by Eligibility Specialist, [REDACTED] and Lead to Worker, [REDACTED].

The following exhibits were offered and admitted into evidence:

Department: A--April 12, 2016, Notice of Case Action.
B--April 12, 2016, [REDACTED] policy statement.
C--Emergency Monitor Job Description.
D--March 24, 2016, Assistance Application.

ISSUE

Did the Department properly denied the 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 March 24, 2016, the Petitioner applied for FAP benefits.
2. The Petitioner is employed as an Emergency Monitor in an apartment complex and is paid in-kind by being provided a two-bedroom apartment including heat,

electricity, water, sewer and garbage removal service. The Petitioner does earn wages when he works on holidays which fall on a normal workday; specifically, Monday through Thursday.

3. On April 12, 2016, the Department sent the Petitioner a Notice of Case Action informing the Petitioner that his FAP application had been denied because the Policy Department has determined that in-kind wages do not qualify a student for FAP eligibility.

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.

Bridges Eligibility Manual 245 (2016) p. 4, provides that a person with student status will meet eligibility criteria if that student is employed for at least 20 hours per week and paid for such employment. In the alternative, the student can be self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.

During the hearing, the Petitioner testified that the fair market value for the two-bedroom apartment that he receives is \$ [REDACTED] a month. When divided by the minimum wage of \$ [REDACTED] the Petitioner argues that he is working just over 20 hours a week and that this does not even count the value of all of the utilities that he receives in-kind as well.

In this case, the Policy Department denied the Petitioner's application stating that in-kind wages do not constitute being "paid." Dictionary.com defines being paid as settling a debt or obligation by transferring money or goods or by doing something. This Administrative Law Judge concludes that the Petitioner is indeed being paid for working over 20 hours a week at minimum wage by being provided free rent and utilities of a two-bedroom apartment. This Administrative Law Judge concludes that there is no express policy requirement that the Petitioner be paid in money as opposed to being provided goods for the work that he does. Lastly, to deny the Petitioner's eligibility under a student status simply because he is not being paid with money is contrary to the Departmental philosophy which encourages individuals and families to become self-sufficient.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it took action to deny the Petitioner's application for FAP.

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, INCLUDING ISSUING A NEW ELIGIBILITY NOTICE, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine the Petitioner's eligibility for FAP back to March 24, 2016, and
2. Issue the Petitioner any supplement he may thereafter be due, and
3. The Petitioner retains the right to request a hearing on the new eligibility determination.



SH/nr

Susanne E. Harris
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

[REDACTED]

Petitioner

[REDACTED]