



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: June 9, 2016
MAHS Docket No.: 16-005741
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 June 1, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for 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. Petitioner applied for FAP benefits.
2. On [REDACTED], Petitioner entered an agreement with the Department in which she was to be disqualified from FAP benefits for 12 months.
3. The Department believed that Petitioner was subject to a 24 month disqualification and placed a sanction on Petitioner's FAP benefits until [REDACTED].
4. On [REDACTED], the Department sent Petitioner a Notice of Case Action which informed her that her application for FAP benefits had been denied due to the non-completion of the sanction period.

5. On [REDACTED], 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.

Additionally, a court or hearing decision that finds a client committed IPV disqualifies that client from receiving program benefits. BAM 720 (October 2014), p. 15. A disqualified recipient remains a member of an active group as long as he lives with them, and other eligible group members may continue to receive benefits. BAM 720, p. 16.

Clients who commit an IPV are disqualified for a standard disqualification period except when a court orders a different period, or except when the OI relates to MA. BAM 720, p. 16. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifetime disqualification for the third IPV, and ten years for a FAP concurrent receipt of benefits. BAM 720, p. 16.

In this case, Petitioner acknowledged that she signed a Request for Waiver of Disqualification Hearing. At the time Petitioner signed the document, it identified the sanction as lasting for one year. The document contained handwritten notes which stated as follows: "subject agreed to 2 year disq correction per phone contact on 1-29-15." Petitioner confirmed that she was called about the correction. However, Petitioner denied that she agreed to the correction. Furthermore, Petitioner stated that she was unaware of a prior violation and/or sanction. Petitioner stated that the person requesting permission for the change had no details relating to the first alleged violation. The Department representative appearing at the hearing had no personal knowledge of the prior incident.

There was no evidence presented to support a finding that Petitioner agreed to the two year disqualification. If, as Petitioner states, she did not agree to the two year disqualification, the Office of Inspector General could have proceeded to hearing. The undersigned finds that the Department failed to provide adequate proof of a prior

violation and further finds that Petitioner only agreed, via signature, to a one year sanction. The one year sanction ended in February 2016.

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 altered the Request for Waiver of Disqualification Hearing document after it had been signed by Petitioner and assessed a 24 month sanction of FAP benefits.

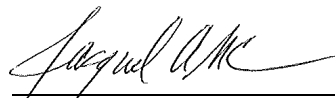
DECISION AND ORDER

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. Lift the IPV sanction from Petitioner's FAP case effective [REDACTED].
2. Reregister and reprocess Petitioner's application for FAP benefits;
3. Issue supplement Petitioner was eligible to receive but did not effective [REDACTED], [REDACTED] ongoing;
4. Notify Petitioner in writing of it decision.

JM/hw



Jacquelyn A. McClinton

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]

[REDACTED]

Petitioner

[REDACTED]