



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: August 31, 2016
MAHS Docket No.: 16-010364
Agency No.: ██████████

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ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 August 24, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing with his daughter, ██████████ who served as ██████████ Interpreter. Petitioner represented himself for the hearing. The Department of Health and Human Services (Department) was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

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 recipient of FAP benefits.
2. On June 15, 2016, the Department received verification of Petitioner's ██████ year old daughter ██████████ employment at ██████████ on which it was reported that she was fired from her job and last paid on ██████████. (Exhibit A)
3. On June 27, 2016, the Department sent Petitioner a Notice of Case Action (Notice) informing him that effective July 1, 2016, ongoing, his FAP case would be closed on the basis that verification of loss of employment was not returned for ██████████. The Notice also indicated that Petitioner or a group member voluntarily quit a job,

reduced hours or employment, or failed to participate in FAP employment related activities without good cause. The Notice lists Petitioner's ■ year old daughter as the noncompliant group member and imposes a six month disqualification. (Exhibit C)

4. The Department did not instruct Petitioner to submit additional verification of his daughter's loss of employment prior to the case closure.
5. The Department improperly imposed two FAP employment related sanctions to Petitioner's FAP case.
6. A triage was held on July 5, 2016, after the FAP case had closed. (Exhibit B)
7. On July 25, 2016, Petitioner requested a 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, non-deferred adult members of FAP households must comply with certain work related requirements in order to receive FAP benefits. BEM 233B (July 2013), p. 4. Non-deferred adults who are already working may not: voluntarily quit a job of 30 hours or more per week without good cause or voluntarily reduce hours of employment below 30 hours per week without good cause. BEM 230B (April 2016), pp.1-2. The first occurrence of failing to comply with employment related activities without good cause results in a FAP group member disqualification of one month or until compliance, whichever is longer. For a second or subsequent occurrence, the Department will disqualify the person for six months or until compliance, whichever is longer. For recipients of FAP benefits, the disqualification is to begin the first month possible after determination or notification of the failure to comply. The Department is to provide the FAP group timely notice of the disqualification. BEM 233B, pp.6-7. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is

pending to provide the client a chance to react to the proposed action. BAM 220 (July 2016), p.4.

In this case, the Department acknowledged that there were errors in the processing of Petitioner's FAP case, as there should not have been any FAP disqualification imposed because none of Petitioner's FAP group members failed to comply with work related requirements without good cause. The Department testified that it received information to indicate that Petitioner's daughter was terminated from her employment on the basis that she did not meet the required quota for credit card registration. The Department stated that two penalties/sanctions were imposed on Petitioner's FAP case in error and that the sanctions were imposed under the name of the wrong group member. The Department acknowledged that Petitioner's daughter's loss of employment or termination should not have been considered a failure to comply with work related requirements without good cause. Additionally, although the Notice indicates that Petitioner's case is closing due to a failure to provide verification of loss of employment, the Department conceded that this also was in error, as verifications were not requested of Petitioner. (See BAM 130); (Exhibit C). The Department testified that the denial/closure reasons reflected on the Notice were incorrect and it was established that the Department did not provide timely notice of the case closure as required by Department policy.

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 closed Petitioner's FAP case effective July 1, 2016.

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. Reinstate Petitioner's FAP case effective July 1, 2016;
2. Remove the two employment disqualification/penalties imposed on Petitioner's FAP case;
3. Recalculate Petitioner's FAP budget for July 1, 2016, ongoing, to include all household members in accordance with Department policy;

4. Issue FAP supplements to Petitioner from July 1, 2016, ongoing; and
5. Notify Petitioner in writing of its decision.



ZB/tlf

Zainab A. Baydoun
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]

Via Electronic Mail:

[REDACTED]