



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 27, 2016
MAHS Docket No.: 16-011824
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 September 19, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist. [REDACTED] of [REDACTED] [REDACTED] appeared as an Arabic translator.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's eligibility for Family Independence Program (FIP).

The second issue is whether MDHHS properly determined 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 FIP and FAP benefit recipient.
2. Petitioner was a member of a household which included an 8 year old child and a 20 year-old child who was attending college full-time.

3. On [REDACTED], MDHHS mailed Petitioner a Verification of Student Information concerning Petitioner's 8-year-old child.
4. Petitioner failed to verify his 8-year old son's school attendance.
5. On [REDACTED], MDHHS initiated termination of Petitioner's FIP eligibility, effective July 2016, due to Petitioner's failure to verify his son's school attendance.
6. On [REDACTED], MDHHS determined Petitioner to be eligible for [REDACTED] in FIP benefits, effective September 2016, in part, based on a disqualification of Petitioner's 20-year-old son.
7. On [REDACTED], Petitioner requested a hearing to dispute a termination of FIP benefits and an unspecified FAP benefit determination.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of FIP benefits. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 7-12) dated [REDACTED]. The notice stated Petitioner's FIP eligibility would end due to a Petitioner failure to verify school attendance for one of his children.

Dependent children are expected to attend school full-time, and graduate from high school or a high school equivalency program, in order to enhance their potential to obtain future employment leading to self-sufficiency. BEM 245 (July 2016) p. 1. Dependent children ages 6 through 17 must attend school full-time. *Id.* If a dependent child age 6 through 15 is not attending school full-time, the entire... group is not eligible to receive FIP. *Id.* [For FIP benefits, MDHHS is to] verify school enrollment and attendance at application and redetermination beginning with age 7. *Id.*, p. 10.

MDHHS presented a Verification of Student Information (Exhibit 1, pp. 5-6) concerning Petitioner's 8-year-old child. The form was dated [REDACTED]. Petitioner testified he received the form and submitted it to his child's school. Petitioner testified the school told him that the form was sent to MDHHS. MDHHS credibly responded Petitioner's electronic case file did not include a school enrollment form.

Petitioner contended, even if MDHHS did not receive verification of his son's school attendance, he should not be punished because he had no options but to rely on the school to forward the Verification of Student Information to MDHHS. Petitioner's contention was not persuasive.

Petitioner could have checked his electronic case file to verify the school attendance form was returned to MDHHS. Petitioner could have contacted his specialist to verify the school enrollment form was received. Petitioner could have submitted a copy of his son's report card to MDHHS. Petitioner could have obtained a letter from the school and submitted that to MDHHS; in fact, Petitioner obtained such a letter.

During the hearing, Petitioner presented to MDHHS a letter dated [REDACTED], from his child's school indicating that Petitioner's 8 year-old child was enrolled. Because the school letter could not have been sent to MDHHS before case closure, the form was not relevant to determining if Petitioner timely verified school enrollment.

Petitioner presented no first-hand information, nor persuasive evidence, that he or his child's school verified his son's school attendance before FIP case closure occurred. It is found Petitioner failed to verify his son's school attendance. Accordingly, the FIP benefit termination was proper.

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's hearing request checked a dispute concerning FAP amount. The request did not specify what FAP benefit month was disputed.

Petitioner testimony was ambiguous, however, Petitioner eventually agreed that he disputed his FAP eligibility for September 2016. The presented Notice of Case Action verified a FAP issuance of [REDACTED].

During the hearing, Petitioner specifically questioned why his FAP eligibility was less for September 2016 than in the previous months. FAP benefits could be decreased due to increases of income, decreases in expenses, favorable client errors in previous budgets, changes in group size, or changes in MDHHS policy. The presented Notice of Case Action partially clarified that Petitioner's FAP eligibility was, in part, calculated by disqualifying one of Petitioner's children due to student status. The explanation seemed to contradict other MDHHS testimony which indicated no change in group members from previous months. Nevertheless, to determine if MDHHS properly determined

Petitioner's FAP eligibility for September 2016, eligibility from previous months need not be considered.

The presented Notices of Case Action included a budget summary for all FAP amounts factored by MDHHS. During the hearing, Petitioner was given an opportunity to dispute all budgeted income and expenses. The below analysis incorporates Petitioner's responses and FAP budget policies from BEM 556.

Petitioner testified he is a member of a household that includes his spouse and 5 children. MDHHS factored a FAP group size of 6 persons. MDHHS testimony credibly stated Petitioner's 20 year-old son was excluded due to student status.

A person enrolled in a post-secondary education program may be in student status. BEM 245 (July 2016), p. 2. A person in student status must meet certain criteria in order to be eligible for [food] assistance. *Id.*

A person is in student status if he [or she] is aged 18 through 49 years and enrolled half-time or more in either:

- a vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate; or
- a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required.

(see *Id.*, pp. 3-4)

It was not disputed that Petitioner's son was 20 years-old and a full-time college student. Thus, Petitioner's son was in student status.

In order for a person in student status to be eligible [for FAP benefits], they must meet one of the following criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
 - A JTPA program.
 - A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
 - Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- 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.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year (i.e. work study).

- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
 - Enable the person to attend class and work at least 20 hours per week.
 - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does not live with his or her natural, adoptive or stepparent.

Id., pp. 3-5.

Petitioner testimony conceded his son who attended college was neither employed nor engaged in workstudy. Petitioner did not allege that any of the other less common exceptions were applicable.

Based on the presented evidence, it is found that MDHHS properly excluded Petitioner's college-aged child from the FAP benefit group. Thus, MDHHS properly factored a group size of 6 persons in the FAP benefit determination.

MDHHS factored monthly unearned income of [REDACTED]. Petitioner testimony agreed the amount to be accurate.

[MDHHS] uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses above \$35 for each SDV group member(s) and an uncapped excess shelter expense. It will be assumed that Petitioner's group is a SDV group as Petitioner testified SSI benefits was his household's only source of income.

Verified medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded having neither day care, medical, nor child support expenses.

Petitioner's FAP benefit group size justifies a standard deduction of [REDACTED]. RFT 255 (July 2016), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is found to be [REDACTED].

MDHHS factored [REDACTED] in housing expenses. Petitioner testimony conceded the amount to accurately reflect his housing costs.

MDHHS credited Petitioner with a utility standard of [REDACTED] (see RFT 255). The utility standard incorporates all utilities and is the maximum utility credit available. Petitioner's total shelter expenses are found to be [REDACTED].

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be [REDACTED] (rounding up to nearest dollar).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be [REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income Petitioner's proper FAP benefit issuance is found to be [REDACTED] the same amount calculated by MDHHS.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible to receive [REDACTED] in FAP benefits, effective September 2016. It is also found MDHHS properly terminated Petitioner's FIP eligibility, effective July 2016, due to Petitioner's failure to verify his 8-year-old son's school attendance. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki
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]