



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: October 7, 2016
MAHS Docket No.: 16-012675
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 October 4, 2016, from Lansing, Michigan. The Petitioner, [REDACTED], appeared and testified. The Department of Health and Human Services (Department) was represented by Family Independence Manager, [REDACTED]; Assistance Payments Worker, [REDACTED] and Lead Support Specialist from the Office of Child Support (OCS), [REDACTED].

PROCEDURAL HISTORY

No exhibits were admitted during the hearing. Before the record closed during the hearing, it was discussed that the following exhibits would be offered and admitted into evidence after the hearing and after they were faxed to the Michigan Administrative Hearing System:

Department: A--April 26, 2016, First Customer Contact Letter.
B--May 7, 2016, Final Customer Contact Letter.
C--May 14, 2016, Noncooperation Notice.
D--February 4, 2016 and April 17, 2015 State Emergency Relief Decision Notices.

Petitioner: 1-- November 7, 2015, the Petitioner's lease.
2-- July 1, 2016, correspondence from the Petitioner to the Department.
3-- July 28, 2016, letter from the Post Office.

ISSUE

Did the Department properly take action to reduce the Petitioner's Food Assistance Program (FAP) benefits due to the Petitioner's noncooperation with the OCS?

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 was an ongoing recipient of FAP benefits.
2. On May 14, 2016, the Petitioner was found to be noncompliant with the OCS because she did not respond to contact letters from the OCS.
3. There is no Notice of Case Action in evidence. At some point in time the Department notified the Petitioner that her FAP benefits would be reduced due to her noncompliance with the OCS.
4. On August 29, 2016, the Department received the Petitioner's written hearing request protesting the reduction in her FAP benefits for the months of June 1, 2016 through August 31, 2016.

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 (BEM) 255 (2015) pp. 1, 2, provides that families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent.

The custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for

not cooperating has been granted or is pending. Cooperation with the OCS is a condition of eligibility for FIP, p. 9. Failure to cooperate with the OCS without good cause results in disqualification for FIP. p. 2. BEM 255, pp. 5-8, provides that it is the role of the Support Specialist (SS) to determine cooperation and non-cooperation and to attend pre-hearings and administrative hearings. Cooperation includes the following:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent.
- Appearing at the office of the prosecuting attorney when requested.
- Taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests).

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

In this case, the Petitioner testified that she did not fail to cooperate with the OCS. The Petitioner protested that she did not receive any of the contact letters sent to her by the OCS. The address on the notice of hearing was different from the address contained on the OCS contact letters. The Petitioner testified it had been 14 years since she lived at the address to which the contact letters were sent. After the hearing, the Department submitted Department's Exhibit D, which indicates that the Department was corresponding with the Petitioner at a different address than the address to which the contact letters from OCS were mailed. As such, the Petitioner has rebutted the presumption that she received the contact letters from the OCS, as the contact letters were mailed to an address where the Petitioner had not lived for 14 years. Therefore, the Department has not met its burden of proving that it acted in accordance with departmental policy when taking action to sanction the petitioner's FAP case.

DECISION AND ORDER

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 took action to reduce the Petitioner's FAP benefits.

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY, INCLUDING ISSUING A NEW ELIGIBILITY DETERMINATION NOTICE, AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine the Petitioner's eligibility for FAP benefits as if she were in compliance with the OCS from June 1, 2016 to August 31, 2016, and

2. Issue the Petitioner any supplement she may thereafter be due, and
3. The Petitioner retains the right to request a hearing on the Department's 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

Department Representative

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DHHS

[REDACTED]

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