



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: October 24, 2016
MAHS Docket No.: 16-013757
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 October 20, 2016, from Lansing, Michigan. Petitioner appeared and testified. The Department was represented by Hearing Facilitator [REDACTED]. Testimony was received from all participants. Department's Exhibit A, pages 1 -145 was admitted into evidence.

ISSUE

Did the Department properly determine Petitioner's 19 year old daughter was not eligible for Food Assistance Program (FAP) benefits during the months of July, August and September 2016 because she was not an eligible student?

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 Food Assistance Program (FAP) benefits. Petitioner's Food Assistance Program (FAP) benefit group consisted of herself, her 19 year old daughter who was attending college part time and working 20 or more hours per week, and her 13 year old daughter.
2. On June 1, 2016, Petitioner submitted an online Change Report stating that her 19 year old daughter was no longer working.

3. On June 8, 2016, the Department sent out a Verification of Employment (DHHS-38) form regarding the daughter's earned income. The verification was due back on June 20, 2016.
4. On July 8, 2016, the Department received verification that Petitioner's 19 year old daughter was laid off beginning June 10, 2016 and received her last paycheck on June 17, 2016.
5. On July 13, 2016, Petitioner was sent a Notice of Case Action (DHHS-1605) which stated her Food Assistance Program (FAP) benefits would increase to \$ [REDACTED] per month beginning July 1, 2016. That benefit level was for a benefit group of 2 (Petitioner and her 13 year old daughter). The notice also stated the 19 year old daughter was not part of the Food Assistance Program (FAP) benefit group because she was not an eligible student.
6. On August 15, 2016, Petitioner called the Department and reported that her 19 year old daughter was no longer in school.
7. On August 30, 2016, the Department received verbal verification from the [REDACTED] that Petitioner's 19 year old daughter was enrolled during the 2016 winter/spring semester, was not enrolled for the 2016 summer semester, and was enrolled for the 2016 fall semester.
8. On September 2, 2016, the Department added Petitioner's 19 year old daughter back to the Food Assistance Program (FAP) benefit group as an eligible student. The Department took that action based on Petitioner's verbal report that her daughter was working more than 20 hours again. Petitioner was sent a Notice of Case Action (DHHS-1605) which stated Petitioner's Food Assistance Program (FAP) benefit group of 3 was eligible for \$ [REDACTED] per month of Food Assistance Program (FAP) benefits beginning October 1, 2016.
9. On September 16, 2016, Petitioner submitted this hearing request.

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) 212 Food Assistance Program Group Composition provides that parents and their children under 22 years of age who live together must be in the same Food Assistance Program (FAP) benefit group.

Bridges Eligibility Manual (BEM) 245 School Attendance and Student Status provides that for Food Assistance Program (FAP) purposes, a person is in student status if they are between 18 and 49 and enrolled half-time or more in a regular curriculum at a college or university that offers degree programs. It also provides that a person in student status who is employed 20 hours per week or more, is eligible for Food Assistance Program (FAP) benefits.

Petitioner's 19 year old daughter who was attending college part time and working 20 or more hours per week was part of the Food Assistance Program (FAP) benefit group in June 2016. The 19 year old daughter was removed from the Food Assistance Program (FAP) benefit group when it was verified that she was no longer working. Petitioner requested this hearing based on her assertion that her 19 year old daughter should have been included in the Food Assistance Program (FAP) benefit group during the months of July, August and September 2016.

Petitioner does not dispute that her daughter was enrolled at [REDACTED] [REDACTED] during the 2016 winter/spring semester and again during the 2016 fall semester. Petitioner bases her position on the undisputed fact that her daughter was not enrolled in classes for the 2016 summer semester.

Bridges Eligibility Manual (BEM) 245 School Attendance and Student Status also states:

The person remains in student status while attending classes regularly. Student status continues during official school vacations and periods of extended illness. Student status does not continue if the student is suspended or does not intend to register for the next school term (excluding summer term).

Because Petitioner's daughter was enrolled for the 2016 fall semester, she remained in student status during the summer semester even though she was not taking classes.

Petitioner also asserts that her daughter was suspended and submitted a May 6, 2016 Email to her daughter from the school's financial aid office. (Department's Exhibit A pages 72 & 73) The Email states that Petitioner's daughter is "suspended from receiving financial aid at [REDACTED]. The Email states that she may register and take classes as long as her tuition is paid. That is not the type of suspension referred to in BEM 245.

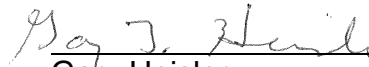
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined Petitioner's 19 year old daughter

was not eligible for Food Assistance Program (FAP) benefits during the months of July, August and September 2016 because she was not an eligible student.

DECISION AND ORDER

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

GH/nr



Gary Heisler
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]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]