



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 8, 2016

[REDACTED]
[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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, an in-person hearing was held on March 2, 2016, in [REDACTED]. Petitioner personally appeared and testified. The Department of Health and Human Services (Department) was represented by Hearing Facilitator [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

1. Did the Department properly determine Petitioner’s Food Assistance Program (FAP) benefits?
2. Did the Department properly determine Petitioner’s Freedom to Work (FTW) Medicaid (MA) 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. On May 26, 2015, Petitioner notified the Department that she was working and asked her worker about going from a Medicaid spend down to the Freedom to Work (FTW) Medicaid (MA) plan. (Dept Exh. C, p 39).
2. On May 26, 2015, the Department issued a Verification Checklist to Petitioner requesting proof of employment due June 5, 2015. (Dept Exh. C, p 40).
3. On June 16, 2015, the Department attempted to verify Petitioner’s reported income at [REDACTED] by emailing [REDACTED] a Verification of Employment. [REDACTED] emailed the

Department verification of Petitioner starting employment on May 22, 2015 ending on June 12, 2015. (Dept Exh. C, p 39, 46-47; ALJ Exh. 1-2).

4. On December 14, 2015, Petitioner applied for Food Assistance Program (FAP) benefits. (Hearing Summary).
5. On December 18, 2015, the Department issued Petitioner a Health Care Coverage Determination Notice indicating she was eligible for Freedom to Work (FTW) Medical Assistance (MA) from June 1, 2015 through June 30, 2015, and beginning December 1, 2015 ongoing. The Department also issued Petitioner a Notice of Case Action approving her for FAP benefits of ██████ for December 14, 2015 through December 31, 2015 and ██████ from January 1, 2016 through November 30, 2016. (Dept Exh. A; ALJ Exh. 3-4).
6. On January 8, 2016, Petitioner submitted a request for hearing.
7. On January 27, 2016, Petitioner submitted additional employment verification of her employment at ██████ from May 15, 2015 through September 22, 2015.

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.

As a preliminary matter, the Department stated during the hearing that Petitioner's FAP allotment of ██████ and ██████ was incorrect because the budget had contained child support. Petitioner last received child support in September, 2015. Therefore, the Department agreed to redetermine Petitioner's FAP allotment based on the new employment information and without child support in the budget. This satisfied Petitioner's hearing request. Therefore, FAP is no longer at issue.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department

of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Per Department Policy, Freedom to Work (FTW) is an SSI-related Group 1 MA Category. BEM 174, p 1 (10/1/2015). FTW is available to a client with disabilities age 16 through 64 who has earned income. *Id.* Eligibility begins the first day of the calendar month in which all eligibility criteria are met. *Id.* All eligibility factors must be met in the calendar month being tested. *Id.*

To be eligible for FTW, the client must be disabled according to the disability standards of the Social Security Administration, except employment, earnings, and substantial gainful activity (SGA) cannot be considered in the disability determination. *Id.* The client must also be employed. *Id.*

A client eligible under the FTW category is a fiscal and asset group of one. BEM 174, p 2. Initial income eligibility exists when the client's countable income does not exceed 250 percent of the Federal Poverty Level (FPL). BEM 174, p 3. Ongoing eligibility exists when the client's unearned income does not exceed 250 percent of the FPL. *Id.*

Petitioner receives Retirement, Survivor Disability Assistance and is therefore eligible for the FTW program.

In this case, the Department mailed Petitioner a Verification Checklist on June 16, 2015, requesting proof of employment. Petitioner testified that she never received the Verification Checklist.

However, according to the Michigan Supreme Court, a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service. This presumption can be rebutted with evidence that the letter was not received. *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).

Petitioner failed to provide credible, material, and substantial evidence to rebut the presumption of receipt as the Department mailed all correspondence to Petitioner's address of record.

The Department did not receive timely verification of employment from Petitioner. The information the Department received directly from the employer indicated a start date of May 22, 2015 and an end date of June 12, 2016. Therefore, Petitioner did not meet the eligibility standards for the Freedom to Work program and remained on a spend down.

On December 14, 2015, Petitioner submitted proof of employment at [REDACTED]. On December 18, 2015, the Department issued a Health Care Coverage Determination Notice to Petitioner notifying her that from June 1, 2015 through June 30, 2015, Petitioner was eligible for the FTW program. On January 27, 2016, Petitioner submitted

additional information regarding her employment verifying she was employed at [REDACTED] from May 15, 2015 through September 9, 2015.

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 properly determined Petitioner was eligible for FTW-MA for June 2015, based on information received in December, 2015.

The Administrative Law Judge finds the Department did not act in accordance with Department policy when it determined Petitioner's FAP benefits because Petitioner was not receiving child support at the time of application.

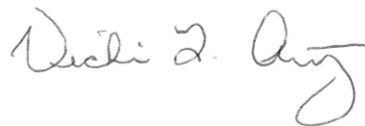
DECISION AND ORDER

Accordingly, the Department's decision regarding Freedom to Work Medicaid is **AFFIRMED**.

The Department's decision regarding FAP and FTW-MA 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. Redetermine Petitioner's FAP and FTW-MA eligibility from July, 2015 forward and award Petitioner any retroactive FAP or FTW-MA benefits she may otherwise be entitled too.
2. Issue a Notice of Case Action to Petitioner indicating the result of the Redeterminations.



VA/db

Vicki L. Armstrong
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]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]