



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 17, 2016
MAHS Docket No.: 16-000850
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 March 10, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly decrease Petitioner's FAP benefits for failing to cooperate with the Office of Child Support?

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 is an ongoing FAP recipient.
2. Petitioner received a Notice of Non-Compliance regarding her failure to cooperate with the Office of Child Support.
3. On or about [REDACTED], Petitioner asserted a claim of good cause for failing to cooperate with the Office of Child Support.
4. The Department did not make a determination relating to Petitioner's good cause claim.

5. The Department removed Petitioner from the family group size, causing a decrease in FAP benefits.
6. On [REDACTED], Petitioner filed a Request for 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.

In this case, the Department sent Petitioner a Notice of Non-Compliance for failing to cooperate with the Office of Child Support. On or about [REDACTED], Petitioner claimed good cause for her non-compliance based upon emotional harm. It should be noted that Petitioner indicated that the emotional harm that she was experiencing included the absent parent threatening to quit his work if he was placed on child support through the State of Michigan. Petitioner indicated that the absent parent was paying child support in cash directly to her each month. However, under Department policy, absent parents are required to support their children. Support includes **all** of the following:

- Child support.
- Medical support.
- Payment for medical care from any third party. BEM 255, pg. 1 (April 2015).

Although Petitioner has previously reported that the absent parent is paying child support, there was no indication as to the medical support he is providing or whether he is paying for medical care from a third party.

The person appearing at the hearing on behalf of the Department was not Petitioner's assigned worker and did not have any knowledge as to whether a determination had been made relating to Petitioner's good cause claim. Under Department policy, the Department is responsible for determining if good cause exists. See BEM 255, pg. 4

(April 2015). Petitioner testified that she did not receive any decision as to whether good cause existed in her case prior to the negative action. As such, it is found that the

Department did not act in accordance with policy when it decreased Petitioner's FAP benefits.

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 decreased Petitioner's FAP benefits prior to a good cause determination.

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 benefits to the amount before the negative action which was the subject of this hearing;
2. Issue supplements to Petitioner that she was eligible to receive but did not receive from the date of the negative action, ongoing; and
3. Notify Petitioner in writing of its decision.

JM/hw



Jacquelyn A. McClinton

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]

DHHS

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]