



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR



Date Mailed: March 4, 2016
MAHS Docket No.: 16-000877
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

PROCEDURAL HISTORY

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 March 3, 2016, from Lansing, Michigan. The Petitioner, [REDACTED] [REDACTED] appeared and testified. The Department of Health and Human Services (Department) was represented by Hearing Facilitator, [REDACTED] [REDACTED]

The Department offered the following exhibits which were admitted:

- A. January 29, 2016, noncooperation explanation of action taken by Oakland County Prosecuting Attorney.
- B. November 24, 2015, appointment letter from Oakland County Prosecuting Attorney.
- C. December 18, 2015, letter from Oakland County Prosecuting Attorney.
- D. January 29, 2016, Michigan child-support enforcement system note report.
- E. January 13, 2016, noncooperation notice from Oakland County Prosecuting Attorney.
- F. January 29, 2015, email regarding prehearing conference for the instant hearing.
- G. January 13, 2016, DHS-1605, Notice of Case Action.
- H. FAP budget subsequent to negative action.
- I. FAP budget prior to negative action.

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 Oakland County Prosecuting Attorney?

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 monthly FAP benefits in the amount of \$ [REDACTED]
2. The Petitioner failed to appear at a December 14, 2015 appointment at the Oakland County Prosecuting Attorney's office. Notice of that appointment was mailed to the Petitioner at [REDACTED]
3. The Petitioner again failed to appear at a January 12, 2016 appointment at the Oakland County Prosecuting Attorney's office. Notice of that appointment was also mailed to [REDACTED].
4. On January 13, 2016, the Oakland County Prosecuting Attorney's office mailed the Petitioner a noncooperation notice. That notice was mailed to [REDACTED], [REDACTED].
5. On January 13, 2016, the Department sent the Petitioner a DHS-1605, Notice of Case Action informing the Petitioner that her monthly FAP allotment had been reduced to \$ [REDACTED] due to her noncooperation with the Office of Child Support. That notice was sent to the Petitioner [REDACTED].
6. On January 28, 2016, the Department received the Petitioner's written hearing request protesting 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.

Additionally, Bridges Eligibility Manual (BEM) 255 (2015) pp. 1, 2, provides that cooperation with the OCS is a condition of eligibility for benefits. Failure to cooperate with the OCS without good cause results in disqualification for benefits. 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).

In this case, the Departments Hearing Facilitator requested the Oakland County Prosecuting Attorney, [REDACTED], as a witness and this Administrative Law Judge did try to contact [REDACTED] via telephone, twice, to conference her into the hearing. This Administrative Law Judge left a message on [REDACTED] voice mail instructing her to telephone the Administrative Law Judge if she still wished to participate. Apparently, she did return this Administrative Law Judge's telephone call, but by time she was put through the hearing had been concluded.

In this case, the Petitioner is alleged to have been noncompliant for having failed to attend meetings with the Oakland County Prosecuting Attorney. The Petitioner does not contest that she failed to appear at these meetings; however, she testified that she never received notice of these meetings. The evidence in the record indicates that the notice of meetings were sent to a different address than the address that was on file with, and used by, the Department. There was no reasonable explanation provided at the hearing for why it was that the Petitioner was not mailed notice of the meetings with the Oakland County Prosecuting Attorney to her last reported address with the Department. Prosecuting Attorney Maclean could not be asked, as she was not present for the hearing. As such, the record does not establish that the Petitioner had proper notice of the meetings. As such, this Administrative Law Judge determines that the Department was not acting in accordance with its policy when determining that the Petitioner was noncompliant, because the notices of the meetings were not sent to her last known address.

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 monthly allotment.

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. Redetermine the Petitioner's eligibility for FAP back to February 1, 2016 without a non-compliance sanction, and
2. Issued the Petitioner any supplement she may thereafter be due.



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

DHHS

[REDACTED]

Department Representative

[REDACTED]

Petitioner

[REDACTED]