



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: June 10, 2016
MAHS Docket No.: 16-005845
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 June 1, 2016, from Lansing, Michigan. Petitioner appeared and testified. Hearing Facilitator [REDACTED] appeared for the Department and testified. Department's Exhibit A, pages 1 - 36 was admitted into evidence.

ISSUE

Did the Department properly deny Petitioner's March 21, 2016 Food Assistance Program (FAP) application?

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 December 16, 2015, Petitioner was terminated from employment at [REDACTED]
2. On December 23, 2015, Petitioner's December 22, 2015 unemployment insurance claim was approved.
3. On January 13, 2016, Petitioner was sent a Notice of Case Action (DHS-1605) which stated her Family Independence Program (FIP) and Food Assistance Program (FAP) were being placed on an employment and training related sanction.

4. On March 21, 2016, Petitioner submitted an application for Food Assistance Program (FAP) benefits.
5. On April 19, 2016, Petitioner was sent a Notice of Case Action (DHS-1605) which stated her March 21, 2016, Food Assistance Program (FAP) application was denied for excess income.
6. On April 25, 2016, Petitioner submitted a 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.

The eligibility calculation made for Petitioner's March 21, 2016, Food Assistance Program (FAP) application was based on Petitioner being disqualified from the benefit group due to the previously imposed sanction. There is no jurisdiction in this hearing, to review whether the Food Assistance Program (FAP) sanction should have been applied in January. However, during this hearing the Department representative testified that there is a concern by the local office as to whether Petitioner should still be on a Food Assistance Program (FAP) sanction. Bridges Eligibility Manual (BEM) 233B Failure to Meet Employment Requirements: FAP (7-1-2013) provides the guidance on Food Assistance Program (FAP) sanctions and for reestablishing FAP eligibility.

There is evidence in this record which supports that concern. As a general principle, approval of unemployment benefits indicates that Petitioner was not determined to have voluntarily quit employment or acted against the interest of the employer. The standards for unemployment compensation and the Department's criterion for what constitutes refusing employment are not the same. However, they are based on similar standards of conduct and accountability of the person whose employment was terminated. Department Exhibit A page 22 also raises a question about the eventual classification of the employment event of December 16, 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's March 21, 2016 Food Assistance Program (FAP) application.

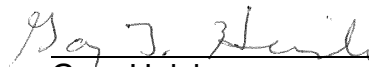
DECISION AND ORDER

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 March 21, 2016 Food Assistance Program (FAP) application and reprocess it to include an evaluation of whether Petitioner had reestablished FAP eligibility in accordance with BAM 233B. Issue Petitioner a current Notice of Case Action (DHS-1605) containing the re-determined Food Assistance Program (FAP) eligibility.

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]