



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: September 7, 2016
MAHS Docket No.: 16-010549
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 31, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) 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. Petitioner was an ongoing FAP benefit recipient.
2. Petitioner was a member of a household that included herself and a child born in 2008.
3. As of February 2016, Petitioner was pregnant and reported to MDHHS that her unborn child's father was a household member.
4. On [REDACTED], Petitioner gave birth to a child.

5. On [REDACTED], Petitioner verbally reported to MDHHS that she gave birth to a child.
6. On an unspecified date, MDHHS determined Petitioner's FAP eligibility, effective May 2016, based on a group size of 2 persons.
7. On an unspecified date, MDHHS mailed a New Hire Notice concerning Petitioner's child's father, to an address not belonging to Petitioner.
8. On [REDACTED], MDHHS initiated termination of Petitioner's FAP eligibility, effective September 2016, based on Petitioner's failure to return a New Hire Notice.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RTM).

Petitioner requested a hearing to dispute FAP eligibility. Petitioner cited 3 MDHHS actions/inactions in dispute.

First, Petitioner alleged MDHHS failed to timely process the addition of a child born in April 2016 as a FAP benefit group member. MDHHS presented an Eligibility Summary (Exhibit 1, p. 1). An Eligibility Summary provides a benefit issuance history, including the number of persons in the benefit group for each issuance. The presented Eligibility Summary verified Petitioner's FAP eligibility for April 2016-July 2016 was based on a group size of 2 persons. Petitioner's August 2016 FAP issuance was based on a group size of 4 persons. MDHHS testimony conceded the history verified MDHHS did not add Petitioner's child as a group member until August 2016.

It was not disputed Petitioner gave birth to a child on [REDACTED]. Petitioner testified that she verbally reported the birth of her child to MDHHS on [REDACTED], or sometime within the next 5 days. Petitioner testified her specialist responded by advising Petitioner to submit the change in writing. MDHHS testimony conceded Petitioner submitted an application on [REDACTED] (though Petitioner only reported her [REDACTED] due date, not that her child was born). Petitioner's testimony was consistent with her submission of a Change Report on [REDACTED] which listed her child as a group member (MDHHS conceded Petitioner's Change Report submission). It is found Petitioner reported to MDHHS the birth of her child in April 2016.

A member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. BEM 550 (October 2015), p. 4. Based on this policy, MDHHS should have added Petitioner's child to the group beginning May 2016. The failure by MDHHS to do so is reversible error.

Secondly, Petitioner alleged MDHHS failed to timely process the addition of her child's father as a group member. Petitioner testimony alleged she reported the change to MDHHS in February 2015. MDHHS essentially conceded the failure, at least since February 2016; despite the concession, Petitioner does not appear to be entitled to relief.

Petitioner's child's father happened to be on another FAP benefit case during the time he was reportedly in Petitioner's household. For whatever reason, MDHHS failed to remove Petitioner's child's father from the other FAP benefit case until July 2016. Based on above-cited policy, August 2016 (the month following removal of Petitioner's child's father from his FAP benefit case) is the benefit month Petitioner's child's father should have been added to Petitioner's FAP benefit case.

Consideration was given to ordering MDHHS to add Petitioner's child's father to Petitioner's case sooner than August 2016. This consideration was primarily based on undisputed evidence that Petitioner had been trying to add her child's father to her case for 6-18 months. Though MDHHS policy precludes allowing persons to be active on multiple FAP benefit cases, MDHHS policy also requires processing changes sooner than 6 months.

Presumably, Petitioner's child's father had access to the FAP benefits the case not belonging to Petitioner. Thus, Petitioner nor her child's father appear to be significantly (if at all) affected by the MDHHS delay in processing the change. This presumption is consistent with Petitioner's lengthy delay in requesting a hearing about the failure by MDHHS to process the change. It is found Petitioner is not entitled to a remedy for the MDHHS failure to timely process Petitioner's reporting of her child's father as a household member.

Thirdly, Petitioner disputed a closure of FAP benefits, effective September 2016. It was not disputed MDHHS mailed Petitioner a Notice of Case Action on [REDACTED] informing Petitioner of the benefit closure. It was not disputed the basis for closure was Petitioner's alleged failure to verify information. MDHHS testimony credibly alleged the specific failure was a failure to return "new hire" information for Petitioner's child's father.

The Michigan Department of Health and Human Services (MDHHS) routinely matches recipient data with other agencies through automated computer data exchanges. BEM 807 (July 2015), p. 1). The State New Hires Match is a daily data exchange of information collected by the Michigan New Hire Operations Center and obtained through the Office of Child Support. *Id.* State New Hires information is used to determine current income sources for active MDHHS clients. *Id.* [MDHHS is to] contact

the client immediately if the employment has not been previously reported. *Id.* [MDHHS is to] request verification by generating a DHS-4635, New Hire Notice, from Bridges.

MDHHS contended a New Hire Notice was mailed to Petitioner concerning employment of her child's father. It was not disputed that the New Hire Report was not returned to MDHHS. As it happened, Petitioner and/or her child's father had good reason for not returning the document.

The above analysis already addressed MDHHS' failure to process Petitioner's reported addition of her child's father as a group member. The MDHHS failure to add Petitioner's child's father to Petitioner's case left her child's father on a separate FAP benefit case. That separate MDHHS case was attached to a different mailing address from Petitioner. MDHHS testimony conceded the New Hire Notice concerning Petitioner's child's father was not sent to Petitioner's or her child's father reported mailing address. The failure of MDHHS to mail the New Hire Notice to the proper address was entirely the fault of MDHHS. MDHHS cannot terminate Petitioner's FAP eligibility based on Petitioner's failure to return a document that MDHHS never mailed to her. Accordingly, it is found MDHHS improperly terminated Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility. It is also found MDHHS improperly terminated Petitioner's FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's FAP eligibility, effective May 2016, subject to the finding that MDHHS failed to add Petitioner's child (born in April 2016) as a group member; and
- (2) Reinstate Petitioner's FAP eligibility, effective September 2016, subject to the finding that MDHHS improperly failed to mail New Hire Notices to Petitioner.

The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki

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]

Petitioner

[REDACTED]