



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: September 27, 2016
MAHS Docket No.: 16-011596
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 three-way telephone hearing was held on September 22, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED], Petitioner; and her Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist; and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) group composition effective June 2016?

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 or about November 16, 2015, Petitioner applied for FAP and Family Independence Program (FIP) benefits.
2. On January 4, 2016, the Department sent Petitioner a Notice of Case Action notifying her that the FIP (Cash) application was denied effective December 16, 2015 and her FAP application was approved effective January 1, 2016 for a household size of one (only Child A), but that Petitioner was not eligible to be member of the FAP group from January 1, 2016 to October 31, 2016 because she failed to cooperate with the Office of Child Support (OCS). Exhibit B, pp. 1-7.

3. Effective January 1, 2016 to July 31, 2016, Petitioner was approved for FAP benefits for a group size of one (Child A only) and received a monthly FAP allotment of [REDACTED]. Exhibit B, p. 24.
4. Petitioner's household consists of the following individuals:
 - a. Petitioner, date of birth [REDACTED]
 - b. Petitioner's biological son, Child A, date of birth [REDACTED];
 - c. Petitioner's biological daughter, Child B, date of birth [REDACTED]
[REDACTED]
 - d. Petitioner's biological daughter, Child C, date of birth [REDACTED]
and
 - e. Petitioner's mother, date of birth [REDACTED]Exhibit A, pp. 5-6.
5. Petitioner's mother had a separate FAP case with Child B, even though she resided with Petitioner. Exhibit A, p. 1 (Hearing Summary).
6. On or about June 6, 2016, Petitioner applied for FAP and FIP benefits.
7. Effective July 1, 2016 to September 30, 2016, Petitioner was approved for FIP benefits for a group size of four and received a monthly FIP allotment of [REDACTED] Exhibit B, pp. 13-14.
8. On July 27, 2016, Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 3-4.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

Preliminary matters

First, Petitioner filed a hearing request in which she disputed her FIP benefits for a couple of reasons; however, the undersigned Administrative Law Judge (ALJ) lacks the jurisdiction to address Petitioner's FIP concerns. Petitioner's first concern was to dispute the denial of her FIP application effective December 16, 2015. The Department's Notice of Case Action to Petitioner was dated January 4, 2016. Exhibit B, p. 1. However, Petitioner did not file a request for hearing to contest the Department's action until July 27, 2016. Exhibit A, pp. 3-4. Petitioner's hearing request was not timely filed within ninety days of the Notice of Case Action and therefore, the undersigned lacks the jurisdiction to address the denial of her FIP application effective December 16, 2015. BAM 600 (October 2015), pp. 1-6.

Also, Petitioner disputed the closure of her FIP benefits effective October 1, 2016. On August 22, 2016, the Department sent Petitioner a Notice of Case Action notifying her that her FIP benefits would close effective October 1, 2016. Exhibit B, pp. 8-9. Again, the undersigned lacks the jurisdiction to address Petitioner's concerns with her FIP case closure because it occurred subsequent to her hearing request. BAM 600, pp. 1-6. Petitioner can file another hearing request to dispute the closure of her FIP benefits effective October 1, 2016. See BAM 600, p. 6 (A request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action).

For the above stated reasons, the undersigned lacks the jurisdiction to address Petitioner's FIP hearing request and is, therefore, DISMISSED. BAM 600, pp. 1-6. As a side note, Petitioner's subsequently applied for FIP benefits on June 6, 2016, and the Department properly approved her for benefits beginning July 1, 2016. Exhibit B, pp. 13-14 and BAM 115 (January 2016), p. 25 (For FIP cases, provided the group meets all eligibility requirements, begin assistance in the pay period in which the application becomes 30 days old).

Second, Petitioner also disputed the fact that she was disqualified from receiving FAP benefits effective January 1, 2016, due to her non-cooperation with the OCS. Again though, Petitioner was provided a Notice of Case Action on January 4, 2016, informing her of the non-cooperation and she failed to request a hearing within 90-days of the date of the notice. Exhibit B, pp. 1-2. As such, the undersigned lacks the jurisdiction to address Petitioner's concerns in regards to the Department's determination that she was disqualified from receiving FAP benefits effective January 1, 2016, due to her non-

cooperation with OCS. See BAM 600, pp. 1-6 and BEM 255 (April 2015), p. 14. (For FAP cases, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. The individual and her needs are removed from the FAP Eligibility Determination Group (EDG) for a minimum of one month. The remaining eligible group members will receive benefits). It should be noted that Petitioner was found to be in cooperation with the OCS as of July 29, 2016. Exhibit A, p. 9.

Third, the only issue that the undersigned can address in this hearing is whether the Department properly determined Petitioner's FAP group composition effective June 2016. As shown above, the undersigned lacks the jurisdiction to address Petitioner's FAP application dated November 16, 2015; however, the undersigned does have the jurisdiction to address Petitioner's FAP application dated June 6, 2016. BAM 600, pp. 1-6. The Department was aware of Petitioner's FAP group composition and any changes due her application in June 2016. See BAM 105 (April 2016), pp. 11-12 (Responsibility to Report Changes). Thus, the undersigned will address Petitioner's FAP group composition beginning June of 2016 below:

FAP group composition

Effective June 1, 2016, Petitioner's FAP group composition was one, which was Child A. Exhibit B, p. 24. However, after a thorough review of the evidence record and testimony by both parties, Petitioner's FAP group composition should have been three effective June 2016.

Policy states that parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212 (October 2015), p. 1.

Based on the above policy, effective June 2016, Petitioner's FAP group composition should have consisted of the following three individuals: (i) Child A; (ii) Child B; and (iii) Petitioner's mother. Petitioner is under 22 years of age and even though she was disqualified at the time, Petitioner and her mother must be in the same FAP group. It was determined that Petitioner's mother had her own FAP case with Child B, but this was improper because Petitioner and her mother are mandatory group members. See BEM 212, p. 1. Additionally, Child A and Child B are children under 22 years of age and therefore, must also be in the same FAP group with Petitioner (their mother). As such, Petitioner's FAP group composition must be three beginning June 2016 (Child A; Child B; and Petitioner's mother). However, for June 2016, Petitioner is not a member of the FAP group due to her non-cooperation with OCS or Child C because she had yet to be born. BEM 255, p. 14.

Effective July 1, 2016, Petitioner's FAP group composition again should have been three for the same reasons as stated above. Yes, Child C was born on [REDACTED], but policy states 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 212, p. 9. In determining the potential FAP benefit increase, Bridges assumes the FIP/SDA supplement and new grant amount have been authorized. BEM 212, 9. Based on this information, Child C could not be added to the FAP group composition until August 2016, the month after it was reported. BEM 212, p. 9. Also, Petitioner became compliant with the COS on July 29, 2016. Exhibit A, p. 9. Policy states that for FAP cases, a disqualified member is returned to the eligible group the month after cooperation or after serving the one-month disqualification, whichever is later. BEM 255, p. 15. This means that Petitioner would not be returned to the eligible group until August 2016 and therefore, she would not be a member of the FAP group for July 2016. BEM 255, p. 15.

For the above stated reasons, the Department did not properly determine Petitioner's FAP group composition effective June 2016 and therefore, the Department is ordered to redetermine Petitioner's FAP group composition effective June 2016. BEM 212, pp. 1 and 9. If Petitioner wishes to dispute her FAP group composition effective August 2016, she can file another hearing request. See BAM 600, pp. 1-6.

DECISION AND ORDER

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 improperly determined Petitioner's FAP group composition effective June of 2016.

Accordingly, the Department's FAP 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 Petitioner's FAP group composition (including Child A, Child B, and Petitioner's mother) effective June of 2016;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from June of 2016, ongoing; and
3. Notify Petitioner of its decision.

IT IS ALSO ORDERED that Petitioner's FIP hearing request and her FAP hearing request relating to her non-cooperation with the OCS is **DISMISSED** for lack of jurisdiction.

EF/tm



Eric J. Feldman

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]
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