



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 30, 2016
MAHS Docket No.: 16-012422
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 September 28, 2016, from Lansing, Michigan. The Petitioner appeared on her own behalf, along with her friend, [REDACTED]. The Department of Health and Human Services (Department) was represented by Assistance Payments Supervisor [REDACTED], Regulation Agent [REDACTED], and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits?

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 on-going FAP recipient for herself and her four minor children.
2. On June 6, 2016, the Department mailed to Petitioner a Notice of Case Action (NCA) (Exhibit 1, Pages A1-A3), informing her that the Department had added [REDACTED] to her FAP group, and included his income in determining the group's FAP award.
3. Based upon the increased group size, and the increased income, Petitioner's FAP was reduced beginning July 1, 2016, from \$ [REDACTED] to \$ [REDACTED] per month.

4. On August 25, 2016, the Department received Petitioner's hearing request, protesting the reduction in FAP.

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.

Petitioner has four children, the three youngest of whom are the children of [REDACTED]. The only income that Petitioner and her children have is disability income of \$ [REDACTED] per month for her oldest daughter, age 17.

The Department engaged in an investigation to determine whether [REDACTED] was residing with Petitioner in the same home. Based upon Facebook posts, discussions with neighbors, and information from the Friend of the Court, the Department concluded that they were cohabiting and they added him – as well as \$ [REDACTED] per month from his self-employment – to Petitioner's FAP group and budget.

Petitioner testified that she and the four children live in a home on [REDACTED], while [REDACTED] lives at a home on [REDACTED] with his friend, [REDACTED]. She said that he would come to their house every morning to pick up the kids for school, and then he would drop them off at the house after school.

Petitioner's testimony was corroborated by [REDACTED], who had been sequestered during most of her testimony. He said that he had been living in the same home as [REDACTED] for four to five years. He is not on the lease and not on any of the utilities at the home, but he has three vehicles and a driver's license that all are registered at her address. They disputed the testimony by the Department's witness that neighbors reportedly had said that [REDACTED] was living at Petitioner's home. The Facebook images (Pages B4-B9) are not evidence that the two are living in the same home.

Testimony was heard that [REDACTED] has begun paying child support in recent months. That support was not being paid at the time the benefits were reduced, and therefore child support is not an income source that would have been budgeted at that time.

The evidence provided by the Department falls short of the burden of proving by "competent, material, and substantial evidence" that [REDACTED] is living in the home.

DECISION AND ORDER

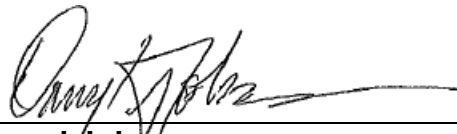
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it added [REDACTED] to Petitioner's FAP group.

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. Remove [REDACTED], and his income, from Petitioner's FAP group.
2. Initiate a redetermination of Petitioner's eligibility for FAP benefits as of July 1, 2016.
3. Issue a supplement to Petitioner for any benefits improperly not issued.

DJ/mc



Darryl Johnson
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]

Petitioner

[REDACTED]