



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: January 20, 2017
MAHS Docket No.: 16-018314
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 January 11, 2017, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Hearing Facilitator [REDACTED]. Department's Exhibit A, pages 1-28 was admitted into evidence.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility on November 15, 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 October 16, 2016, Petitioner submitted an application for Food Assistance Program (FAP) and Medical Assistance (MA) benefits. Petitioner's household includes herself and her two children. Both of Petitioner's children were receiving Social Security Administration Retirement Survivor Disability Income benefits of \$ [REDACTED] per month.
2. On October 17, 2016, Petitioner quit her long term employment at [REDACTED].
3. On October 21, 2016, Petitioner received a check from [REDACTED] for \$ [REDACTED].

4. On November 4, 2016, Petitioner received a check from [REDACTED] for \$[REDACTED].
5. On November 15, 2016, Petitioner was sent a Notice of Case Action (DHHS-1605) which stated she was not eligible for Food Assistance Program (FAP) benefits for the period October 17-31, 2016 due to excess income but was approved for Food Assistance Program (FAP) benefits of \$[REDACTED] per month from November 1, 2016, ongoing.
6. On November 30, 2016, Petitioner submitted a hearing request.
7. During this hearing the Department representative testified that Petitioner's October 16, 2016 application states she is a full time college student but that was not taken into consideration in processing her application. Petitioner's Food Assistance Program (FAP) benefits have been reduced to \$[REDACTED] per month beginning January 1, 2017.

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.

Bridges Eligibility Manual (BEM) 230B Employment-Related Activities: FAP (4-1-2016) provides:

WORK REQUIREMENTS

Non-deferred adult members of FAP households must comply with certain work-related requirements in order to receive food assistance. However, unlike cash benefits, which are tied to participation in Partnership. Accountability. Training. Hope. (PATH), there are no hourly PATH requirements for the Food Assistance Program. In order to receive FAP benefits, non-deferred adults must comply with the following work requirements:

Non-deferred adults who are already working may not do any of the following:

Voluntarily quit a job of 30 hours or more per week without good cause.

Voluntarily reduce hours of employment below 30 hours per week without good cause.

Note: If the job quit or reduction in hours occurred more than 30 days prior to the application date, no penalty applies.

Bridges Eligibility Manual (BEM) 245 School Attendance and Student Status (7-1-2016) provides the definition of a person in student status and the criteria for their FAP eligibility.

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 determined Petitioner's Food Assistance Program (FAP) eligibility on November 15, 2016.

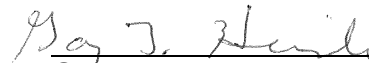
DECISION AND ORDER

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. Determine Petitioner's Food Assistance Program (FAP) eligibility from her application date of October 17, 2016 forward in accordance with all applicable Department policies. Issue Petitioner a current Notice of Case Action (DHHS-1605) giving notice of her 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]

Petitioner

[REDACTED]