



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: March 22, 2017
MAHS Docket No.: 17-001246
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION

Petitioner filed a request for a hearing, under a United States District Court Order issued on January 9, 2015, which allowed the pursuit of potential benefit recovery related to a Michigan Department of Health and Human Services (Department) criminal justice disqualification. This matter is now before the undersigned Administrative Law Judge pursuant to the United States District Court Order.

After due notice, a 3-way telephone hearing was held on March 14, 2017, from Lansing, Michigan. Petitioner appeared on their own behalf. Eligibility Specialist [REDACTED] [REDACTED] appeared on behalf of the Department.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits beginning March 1, 2013 for failure to provide required proofs?

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 recipient of Food Assistance Program (FAP) benefits.
2. On January 9, 2013, the Department case worker tried to close Petitioner's Food Assistance Program (FAP) as a fugitive felon. Bridges prevented the closure. The Department case worker recorded that she was advised to close Petitioner's Food Assistance Program (FAP) using unable to locate. Bridges generated and sent a Verification Checklist (DHS-3503) to Petitioner's address of record. The checklist requested Petitioner's current address.

3. On January 23, 2013, Petitioner was sent a Notice of Case Action (DHS-1605) which stated Petitioner's Food Assistance Program (FAP) would close beginning March 1, 2013 due to a criminal justice qualification and failure to provide required proofs.
4. On January 17, 2017, Petitioner filed a Barry v. Lyon Request for Hearing Form, after receiving a notice of denial of back Food Assistance Program (FAP) benefit payments under the Barry v. Lyon lawsuit.

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.

This hearing has been convened under the direction of a United States District Court Order. The purpose of this hearing is to determine if the Department's closure of Petitioner's Food Assistance Program (FAP) was a valid action, for a reason other than fugitive felon status.

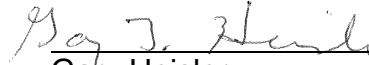
In this case a secondary reason was fabricated in order to close Petitioner's Food Assistance Program (FAP) due to the criminal justice qualification. The criminal justice qualification was the only reason Petitioner's Food Assistance Program (FAP) was closed on March 1, 2013.

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 closed Petitioner's Food Assistance Program (FAP) benefits beginning March 1, 2013.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

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]

Petitioner

[REDACTED]