



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: March 6, 2017
MAHS Docket No.: 17-001585
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on March 2, 2017, from Lansing, Michigan. The Petitioner represented herself. The Department was represented by [REDACTED], Family Independence Manager, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner is only eligible for Food Assistance Program (FAP) benefits with an authorized representative managing her 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 has been on ongoing Food Assistance Program (FAP) recipient since June 10, 2016. Exhibit A, p 4.
2. On December 16, 2016, the Department received Petitioner's application for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits where she reported that she had been convicted of a drug felony. Exhibit A, pp 11-44.
3. Petitioner has an authorized representative for her current ongoing Food Assistance Program (FAP) benefits. Exhibit A, p 5.

4. On January 31, 2017, the Department received Petitioner's request for a hearing protesting the requirement for her to have an authorized representative for her Food Assistance Program (FAP) benefits. Exhibit A, p 3.

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.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2015), pp 3-4.

A person who has been convicted of a felony for the use, possession, or distribution of controlled substances is disqualified if:

- Terms of probation or parole are violated, and
- The qualifying conviction occurred after August 22, 1996.

If an individual is not in violation of the terms of probation or parole:

- FIP benefits must be paid in the form of restricted payments.
- Receipt of FAP benefits requires an authorized representative.

Department of Health and Human Services Bridges Eligibility Manual (BEM) 203 (October 1, 2015), p 2.

Petitioner has been an ongoing FAP recipient since June 10, 2016, and on December 16, 2016, the Department received her application for FAP and CDC benefits. On this application, Petitioner reported that she had been convicted of a drug-related felony.

Petitioner argued that her drug-related felony conviction does not require her to have an authorized representative for her FAP benefits because she was not convicted of a felony for the “use, possession, or distribution of a controlled substance.” Petitioner does not dispute that she was convicted of a drug-related felony, but that it was a drug-felony that does not require her to obtain an authorized representative.

Petitioner also testified that she has received FAP benefits in the past without an authorized representative, but this is not relevant to the issue of whether policy requires her to have an authorized representative for her ongoing benefits. The relevant issue here is whether the Department was acting in accordance with policy when it placed a restriction (requiring an authorized representative) on her ongoing FAP benefits.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, finds that the Department was acting in accordance with policy when it required Petitioner to obtain an authorized representative for her FAP benefits based on the information provided by Petitioner on her application for assistance.

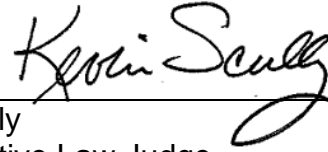
This Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, finds that Petitioner has failed to establish that she is eligible for FAP benefits without an authorized representative. Petitioner did not provide any evidence to establish that the nature of her drug-related felony conviction does not fall under the restrictions established in BEM 203.

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 acted in accordance with Department policy when it required Petitioner to have an authorized representative to remain eligible for her ongoing Food Assistance Program (FAP) benefits.

DECISION AND ORDER

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

KS/nr



Kevin Scully
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] - via electronic mail

[REDACTED] - via electronic mail

[REDACTED] - via electronic mail

[REDACTED] - via electronic mail

Petitioner

[REDACTED]