



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 7, 2017
MAHS Docket No.: 17-001717
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED] [REDACTED] from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Eligibility Specialist, and [REDACTED], Family Independence Manager. [REDACTED], Lead Worker, Office of Child Support also appeared as a witness.

ISSUE

Did the Department properly find the Petitioner in noncooperation with the Office of Child Support (OCS)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department issued a Notice of Case Action on [REDACTED], decreasing the Petitioner's FAP benefits and removing Petitioner from the FAP group due to noncooperation with OCS effective [REDACTED]. Exhibit A.
2. The OCS conceded at the hearing that it had placed the Petitioner in noncooperation with OCS in error and issued a cooperation as of [REDACTED] on [REDACTED]. Exhibit B.
3. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's actions.

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.

In this case, the Department removed the Petitioner from her FAP group due to noncooperation with the OCS regarding her son, [REDACTED]. At the hearing, the OCS Representative credibly testified that on [REDACTED], she corrected the Petitioner's OCS noncooperation status to cooperation effective [REDACTED], due to an OCS error. Exhibit B. The Department's records also noted the cooperation date of [REDACTED]; however, the change was received in its Bridges computer system after the negative action date of [REDACTED]; and no correction was made. Exhibit A.

The custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending.

The support specialist determines cooperation for required support actions. The date client fails to cooperate will be populated in the absent parent logical unit of work and negative action is applied the same night automatically; see **Support Disqualification**.

Exception: Determine non-cooperation for failure to return assigned support payments received after the support certification effective date; see **FIS Determines Cooperation** in this item.

Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. The comply date will be populated in the absent parent logical unit of work and the mandatory member will be added to active MA and FAP EDG the same night automatically; see **Removing A Support Disqualification** in this item.
P.10

Bridges applies the support disqualification when a begin date of non-cooperation is entered and there is no pending or approved good cause. **The disqualification is not imposed if any of the following occur on or before the timely hearing request date; see BAM 600, Hearings:**

- OCS records the comply date.
- The case closes for another reason.
- The non-cooperative client leaves the group.
- Support/paternity action is no longer a factor in the child's eligibility (for example, the child leaves the group).
- Client cooperates with the requirement to return assigned support payments to DHS and the support is certified.
- Client requests administrative hearing. P.11

In this case, in addition to the OCS admitting that their original noncooperation was issued in error, the Petitioner's hearing request was made on [REDACTED], which was before the timely hearing request date for the [REDACTED], Notice imposing the noncooperation sanction. The timely hearing request date as stated in the Notice was [REDACTED]; therefore, the disqualification should not have been imposed for [REDACTED].

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 removed the Petitioner from her FAP group, effective [REDACTED], because the disqualification and noncooperation date was imposed by OCS in error; and the Petitioner's request for hearing was received prior to the timely hearing request date.


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. The Department shall reinstate the Petitioner to her FAP group effective [REDACTED].
2. The Department shall correct the OCS noncooperation date and enter it as [REDACTED].

3. The Department shall issue an FAP supplement to the Petitioner for FAP benefits she was otherwise entitled to receive in accordance with Department policy.

LMF/jaf



Lynn M. Ferris

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]

[REDACTED]