



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 29, 2017
MAHS Docket No.: 17-002181
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 22, 2017, from Lansing, Michigan. The Petitioner represented herself. The Department was represented by [REDACTED] [REDACTED] and [REDACTED] [REDACTED].

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's Food Assistance Program (FAP) application?

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 a Food Assistance Program (FAP) recipient from September 1, 2012, through October 31, 2012. Exhibit A, p 11.
2. On February 7, 2014, the Department notified Petitioner that she was approved for Food Assistance Program (FAP) benefits effective February 1, 2014. Exhibit A, p 13.
3. Petitioner used her Food Assistance Program (FAP) benefits to make purchases from February 8, 2014, through December 8, 2014. Exhibit A, pp 18-22.
4. Petitioner was approved for Food Assistance Program (FAP) benefits from May 1, 2014, through February 1, 2016. Exhibit A, pp 23-27.

5. On November 5, 21015, the Michigan Administrative Hearing System (MAHS) send Petitioner a Notice of Disqualification Hearing, which was returned by the United States Postal Service as undeliverable. MAHS Docket No 15-001791.
6. On December 14, 2015, an Intentional Program Violation hearing that had been requested by the Department on February 11, 2015, was held in Petitioner's absence. MAHS Docket No 15-001791.
7. On June 7, 2016, the Michigan Administrative Hearing System (MAHS) issued a hearing decision finding that Petitioner had engaged in Food Assistance Program (FAP) benefits trafficking, ordering the Department to disqualify Petitioner for 12 months and to recoup a \$ [REDACTED] overissuance. MAHS Docket No 15-001791.
8. The hearing decision was sent to Petitioner on June 7, 2016, but was returned by the United States Postal Service as undeliverable. MAHS Docket No 15-001791.
9. The Department disqualified Petitioner from the Food Assistance Program (FAP) for 12 months starting July 1, 2016. Exhibit A, p 9.
10. On November 30, 2016, the Department notified Petitioner that she was liable for a \$ [REDACTED] liability that was being referred to the Treasury Offset Program. Exhibit A, p 6.
11. On January 25, 2017, the Department received Petitioner's Food Assistance Program (FAP) application. Exhibit A, pp 28-30.
12. On January 25, 2017, the Department notified Petitioner that her Food Assistance Program (FAP) application had been denied. Exhibit A, pp 31-34.
13. On February 10, 2017, the Department received Petitioner's request for a hearing protesting the denial of her Food Assistance Program (FAP) application. Exhibit A, pp 2-5.

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.

On January 25, 2017, the Department received Petitioner's FAP application. Finding that Petitioner was disqualified from receiving FAP benefits due to a 12 months sanction starting July 1, 2016, the Department denied Petitioner's FAP application on January 25, 2017.

The Department had requested a hearing on February 11, 2015, alleging that Petitioner intentionally engaged in FAP benefits trafficking. The Department alleged a \$ [REDACTED] overissuance of FAP benefits and requested a 12 month disqualification. On November 5, 2015, Petitioner was sent notice that a disqualification hearing would be held on December 14, 2015, but the notice was returned by the US Postal Service.

On December 14, 2015, a hearing was held in Petitioner's absence pursuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5). On June 7, 2016, MAHS issued a hearing decision finding that Petitioner had engaged in FAP trafficking, which is an Intentional Program Violation. MAHS then ordered the Department to disqualify Petitioner from FAP for 12 months and recoup a \$ [REDACTED] overissuance in accordance with policy. The hearing decision was mailed to Petitioner on June 7, 2016, but was returned by the US Postal Service as undeliverable.

Petitioner has not filed an appeal of the Intentional Program Violation with MAHS, or appealed that decision and order in circuit court.

A disqualified person is one who is ineligible for FAP because the person refuses or fails to cooperate in meeting an eligibility factor. Individuals are disqualified for, among other reasons, that they have been found responsible for an Intentional Program Violation (IPV). Department of Health and Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2017), p 8.

The Department received Petitioner's application for FAP benefits on January 25, 2017, and promptly denied the application based on an established 12 month IPV disqualification period. Therefore, the January 25, 2017, denial of Petitioner's FAP application was a proper application of Department policy.

Petitioner argued that she had already repaid the overissuance and served a disqualification period. Petitioner failed to present any evidence of a prior disqualification or recoupment of FAP benefits.

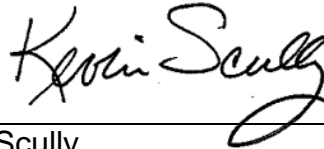
The Department provided evidence showing that she was an active FAP recipient from May 1, 2014, through February 1, 2016, without any recoupment from her monthly allotment. The Department provided evidence showing that Petitioner was an active FAP recipient as of February 1, 2014, and was using her FAP benefits to make purchases from February 8, 2014, through December 8, 2014. While it is possible that Petitioner's FAP benefits closed on October 31, 2012, there is no evidence that this was due to an IPV sanction on her FAP benefits.

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 denied Petitioner's January 25, 2017, application for 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]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]