



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

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Date Mailed: May 4, 2017
MAHS Docket No.: 17-004171
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 ██████████ from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by ██████████, Hearing Facilitator, and ██████████, Specialist.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

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 FAP-benefit recipient.
2. From ██████████, Petitioner's child support payments included arrearage payments which exceeded \$ ██████████.
3. As of ██████████, Petitioner was responsible for a heating obligation.
4. On an unspecified date, MDHHS issued FAP benefits to Petitioner for ██████████.

5. On an unspecified date, MDHHS determined Petitioner to be ineligible for FAP benefits, effective [REDACTED], in part, based on child support expenses of \$ [REDACTED] and no credit for paying heat.
6. On [REDACTED], Petitioner requested a hearing to dispute FAP eligibility from [REDACTED] and an unspecified Family Independence Program (FIP) dispute.
7. Petitioner had no FIP-benefit dispute.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's hearing request indicated a dispute of FIP benefits. Petitioner testified he neither applied for nor received FIP benefits. During the hearing, Petitioner was asked why he requested a dispute of FIP benefits; Petitioner replied that he was not certain. Given presented evidence, MDHHS did not take any adverse actions concerning Petitioner's actual or potential FIP eligibility. Due to the absence of any adverse action, Petitioner's hearing request will be dismissed concerning FIP benefits.

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's requested a hearing, in part to dispute FAP eligibility. Petitioner testified he specifically disputed a stoppage in FAP benefits beginning [REDACTED].

MDHHS presented Respondent's Eligibility Summary (Exhibit 1, p. 1) dated [REDACTED]. The document listed FAP benefits were "Approved" and "Authorized" for [REDACTED]. A \$ [REDACTED] issuance of FAP benefits for [REDACTED] was listed. The document also listed Petitioner's FAP eligibility was "Closed" beginning [REDACTED]. Petitioner presented no documentary evidence to the contrary.

The presented summary was persuasive in establishing that Petitioner received \$ [REDACTED] in FAP benefits for [REDACTED]. Petitioner's hearing request will be dismissed concerning his claim that MDHHS failed to issue FAP benefits in [REDACTED]. The analysis will proceed to evaluate the closure of FAP benefits beginning [REDACTED].

MDHHS presented FAP budget documents (Exhibit 1, pp. 4-5) for [REDACTED]. The documents listed a breakdown of how Petitioner's FAP eligibility was calculated, not including shelter expenses. MDHHS testimony credibly indicated that \$ [REDACTED] in housing expenses and no heat standard were also factored in Petitioner's FAP eligibility.

During the hearing, all relevant FAP-budget factors were discussed with Petitioner. The below analysis only addresses factors disputed by Petitioner- utilities, unearned income, and child support.

The heat/utility (h/u) standard covers all h/u costs including cooling, except actual utility expenses... BEM 554 (January 2017), p. 14. MDHHS testimony indicated Petitioner was not given credit for an h/u credit. Petitioner testified he is responsible for paying heating costs. Later MDHHS testimony conceded Petitioner was entitled to receive the h/u standard. Based on undisputed evidence, it is found that MDHHS improperly denied Petitioner the h/u credit.

MDHHS factored Petitioner's household's unearned income to be \$ [REDACTED]/month. Petitioner testified he was uncertain if the amount was correct. Petitioner also testified he lived with a minor child who received \$ [REDACTED]/month in unearned income. Thus, it was not disputed that MDHHS unearned income for an amount that was fair to Petitioner. Thus, MDHHS will not be ordered to make changes to budgeted unearned income.

Petitioner lastly disputed child support expenses. Presented FAP-budget documents verified that MDHHS factored a child support expense credit of \$ [REDACTED] (see Exhibit 1, p. 4). The factored amount was consistent with a Child Support Expenses- Summary (Exhibit 1, p.2) listing court-ordered obligations of [REDACTED] and \$ [REDACTED] MDHHS contended Petitioner was not entitled to receive credit for child support payments which exceeded Petitioner's court-ordered obligation.

[MDHHS is to...] not allow more than the legal obligation if the client is up-to-date on their child support payments. *Id.*, p. 6 However, if they are behind and making arrearage payments, allow the total amount paid even if it exceeds the court-ordered amount. *Id.* Current and arrearage child support expenses must be paid to be allowed. *Id.*

MDHHS testimony indicated Petitioner paid the following totals for child support: \$ [REDACTED] in [REDACTED]; \$ [REDACTED] in [REDACTED]; and \$ [REDACTED] for [REDACTED]. Petitioner testified all stated amounts were correct. It was not disputed that Petitioner's payment from [REDACTED] included payments for arrearages which exceeded the amount of child support ordered.

MDHHS policy clearly allows MDHHS to factor Petitioner's child support arrearage payments. MDHHS will be ordered to factor Petitioner's child support arrearage payments in redetermining Petitioner's FAP eligibility.

DECISION AND ORDER


The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS did not terminate Petitioner's FAP eligibility, effective [REDACTED]. It is also found that Petitioner had no FIP-benefit dispute. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility beginning [REDACTED]. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's FAP eligibility, effective [REDACTED], subject to the following findings:
 - a. Petitioner was responsible for paying heating costs; and
 - b. Petitioner's child support arrearage payments are countable; and
- (2) Issue a supplement of any FAP benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/jaf



Christian Gardocki
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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]