



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: June 13, 2017
MAHS Docket No.: 17-006219
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 June 8, 2017, from Lansing, Michigan. Petitioner appeared and represented himself. [REDACTED] [REDACTED] Hearing Facilitator, appeared on behalf of the Department of Health and Human Services (Department). [REDACTED] [REDACTED] District Manager, also participated in the hearing as a Department witness.

The Department offered the following exhibits which were marked and admitted into evidence: [**Department's Exhibit 1**: Hearing Summary (pages 1-2), Assistance Application dated May 1, 2017 (pages 3-22), Notice of Case Action dated May 1, 2017 (pages 23-24), Notice of Case Action dated May 5, 2017 (pages 25-27), Request for Hearing dated May 1, 2017 (pages 28-29) and Pre-Hearing Conference Letter Dated May 2, 2017 (page 30).].

Petitioner did not offer any exhibits into evidence.

The record closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) 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 applied for FAP benefits on May 1, 2017. On the application, Petitioner listed himself and his son as household group members. [Department's Exhibit 1, pp. 3-22].
2. On May 1, 2017, the Department denied Petitioner's application for FAP because the Department believed that Petitioner was active on his former girlfriend's FAP case at the time. Accordingly, the Department mailed Petitioner a Notice of Case Action which denied his application. [Dept. Exh. 1, pp. 23-24].
3. The Department later discovered that Petitioner's former girlfriend had left the home and was no longer a member of Petitioner's household at the time of application. The Department then promptly removed Petitioner from his ex-girlfriend's FAP case, re-registered, and reprocessed his May 1, 2017, application. [██████████ Hearing Testimony].
4. On May 5, 2017, the Department mailed Petitioner a Notice of Case Action, which, effective June 1, 2017, approved Petitioner for FAP benefits in the amount of \$██████████ per month for a group size of 2. [Dept. Exh. 1, pp. 25-27].
5. Petitioner requested a hearing because he believes that he should be entitled to retroactive FAP benefits back to February 2017. [Dept. Exh. 1, p. 29].

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 the instant matter, the Department initially denied and then later approved Petitioner's May 1, 2017, application for FAP benefits and provided him with FAP beginning June 1, 2017. Petitioner requested a hearing because he states that his Department caseworker, since February 2017, has wrongfully refused to remove his ex-girlfriend from his FAP group. Accordingly, Petitioner believes that he is entitled to retroactive

FAP benefits for the months of February, March, April, and May 2017. The Department contends that once it received definitive evidence that Petitioner's ex-girlfriend was no longer in his household, he was provided with FAP benefits going forward.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Department policy clearly provides that a person **cannot** be a member of more than one FAP Certified Group (CG) in any month. BEM 222 (10-1-2016), p. 3. The record in this matter shows that Petitioner submitted his FAP application for himself and his son on May 1, 2017. There is no record that Petitioner submitted a prior application. Although the Department initially denied the application, the Department promptly re-registered, reprocessed the application, and approved Petitioner for FAP beginning June 1, 2017. According to department policy, for non-income changes, complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs 10 days after the change is reported. The benefit month cannot be earlier than the month of the change. BAM 220, (4-1-2017), p. 10.

Petitioner's contention that the department caseworker failed to remove his ex-girlfriend from his case in February 2017, does not entitle him to retroactive FAP benefits. The record in this matter shows that Petitioner applied for FAP benefits on May 1, 2017, and, per BAM 220, was correctly issued FAP benefits effective no earlier than June 1, 2017.

Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that the Department properly re-registered and reprocessed Petitioner's May 1, 2017, FAP application and properly provided him with monthly FAP benefits effective June 1, 2017.


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.

DECISION AND ORDER

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

IT IS SO ORDERED.

CAP/mc



C. Adam Purnell
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]