



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: August 22, 2017
MAHS Docket No.: [REDACTED] 17-007830
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 [REDACTED], from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's daughter, testified on behalf of Petitioner and participated as a [REDACTED] translator. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUE

The issue is whether Petitioner timely requested a hearing to dispute various determinations concerning Food Assistance Program (FAP) and Family Independence Program (FIP) 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 and FIP recipient, in part, based on a group that included Petitioner's grandchild.
2. On [REDACTED], MDHHS issued a Notice of Case Action to Petitioner informing Petitioner of a termination of FIP eligibility, effective [REDACTED].
3. On [REDACTED], issued a Notice of Case Action to Petitioner informing Petitioner of a reduction in FAP eligibility, effective [REDACTED].

4. On [REDACTED] Petitioner reapplied for FIP benefits.
5. On [REDACTED], MDHHS issued a Notice of Case Action to Petitioner informing Petitioner of a denial of FIP benefits.
6. On [REDACTED], Petitioner requested a hearing to dispute the case actions dated [REDACTED].

CONCLUSIONS OF LAW

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).

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 requested a hearing, in part, to dispute determinations of FAP and FIP eligibility concerning [REDACTED]. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-5) dated [REDACTED]. The notice informed Petitioner of a termination of FIP benefits and a reduction of FAP benefits.

Presented evidence indicated Petitioner previously received FAP and FIP benefits, in part, based on her caretaker status for a grandchild. Presented evidence indicated that Petitioner's grandchild's mother later moved into Petitioner's home. MDHHS indicated that Petitioner's FAP and FIP eligibility were adversely affected once Petitioner's daughter moved into Petitioner's home. MDHHS specifically alleged that Petitioner's daughter's presence in the household justified removing Petitioner's grandchild from Petitioner's group and adding the grandchild to Petitioner's daughter's group. Presented evidence also indicated that Petitioner's loss in FAP eligibility was essentially transferred to Petitioner's daughter. As it happens, Petitioner is barred from a decision on the merits.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (October 2016), p. 6. The request must be received in the local office within the 90 days.... *Id.*

Petitioner requested a hearing on [REDACTED] MDHHS received Petitioner's hearing request 243 days following the issuance of written notice. Petitioner's hearing request will be dismissed due to its untimeliness concerning the eligibility determinations for [REDACTED].

Petitioner reapplied for FIP benefits after MDHHS terminated her FIP eligibility. Petitioner also requested a hearing to dispute the denial of her reapplication for FIP benefits. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 6-9) dated [REDACTED].

MDHHS testimony indicated that Petitioner's application was denied for the same reason Petitioner's FIP eligibility was terminated. Again, Petitioner is barred from a decision on the merits.

Petitioner's hearing request was submitted 92 days after MDHHS issued notice of the FIP application denial. Thus, Petitioner's hearing request is again untimely thereby justifying dismissal of all of Petitioner's disputes.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely request a hearing to dispute a reduction in FAP eligibility, effective [REDACTED], termination of FIP eligibility, effective [REDACTED] and denial of a FIP application dated [REDACTED]. Petitioner's hearing request is **DISMISSED**.

CG/hw



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

DHHS

[REDACTED]

Petitioner

[REDACTED]