



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 8, 2017
MAHS Docket No.: 17-008421
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

Petitioner filed a request for a hearing, under a United States District Court Order issued on January 9, 2015, which allowed the pursuit of potential benefit recovery related to a Michigan Department of Health and Human Services (Department) criminal justice disqualification. This matter is now before the undersigned Administrative Law Judge pursuant to the United States District Court Order.

After due notice, a 3-way telephone hearing was held on August 9, 2017, from [REDACTED] Michigan. Petitioner appeared on their own behalf. [REDACTED], Eligibility Specialist, appeared on behalf of the Department.

ISSUE

Did the Department deny, terminate or reduce Petitioner's benefits for the Food Assistance Program (FAP) due to fugitive felon status of Petitioner or a member of Petitioner's group during the timeframe of December 30, 2012, through January 9, 2015?

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 either applied for or received, or was a member of a group that received, FAP benefits.
2. The Department did reduce FAP benefits during the timeframe from December 30, 2012, to January 9, 2015.
3. In *Barry v Corrigan*, No. 13-cv-13185, 2015 WL 136238 (ED Mich Jan 9, 2015), and its March 31, 2015 Order Regarding...Implementation of the Court's

January 9, 2015, Order, the Court set forth a process by which applicants or beneficiaries of FIP/SDA/FAP/CDC benefits during the timeframe from December 30, 2012, to January 9, 2015, could seek restoration of the benefits through an administrative hearing process. The process also required that the Department send notices to applicants and beneficiaries that were denied, terminated, or reduced FIP, SDA, FAP, or CDC benefits. The notices were to include a Barry v. Lyon Request for Hearing Form which must be used to request an administrative hearing.

4. On December 31, 2012, Petitioner was not included in the FAP budget for being a fugitive felon with a Notice of Case Action, DHS 1605, sent to Petitioner. Department Exhibit A, pgs. 6-11.
5. On September 19, 2013, Petitioner was added back to the household group with a supplement issued with a Notice of Case Action, DHS 1605, sent to Petitioner. Department Exhibit B, pgs. 12-17.
6. On January 5, 2017, the Barry Lump Sum letter was mailed to Petitioner offering a lump sum of \$ [REDACTED] in FAP benefits or Petitioner could opt out for the Department to prove an exact amount of FAP benefits denied due to criminal justice disqualification. Department Exhibit C, pgs. 18-21.
7. On January 13, 2017, the Department received the Opt Out Form completed and signed by Petitioner for the Department to prove an exact amount of FAP benefits denied due to criminal justice disqualification. Department Exhibit D, pg. 22.
8. On June 7, 2017, the Department calculated Petitioner's eligibility for FAP for February 2013 where she received \$ [REDACTED] but should have received \$ [REDACTED] resulting in a total supplement of \$ [REDACTED]. Department Exhibit E, pg. 23.
9. On June 8, 2017, the Department sent Petitioner a Benefit Notice, DHS 176, that her Barry v. Lyon Opt Out for was processed for FAP. Department Exhibit E, pgs. 24-25.
10. On June 12, 2017, the Department issued Petitioner a supplement of \$ [REDACTED] for FAP. Department Exhibit G, pg. 26.
11. On June 21, 2017, Petitioner filed a Barry v. Lyon Request for Hearing Form, before the deadline date identified on the form, seeking restoration of benefits due to the Department denying, terminating, or reducing FIP, SDA, RAP, or CDC benefits during the timeframe from December 30, 2012 to January 9, 2015.
12. The Department did reduce FAP benefits during the timeframe from December 30, 2012, to January 9, 2015, due to fugitive felon status.

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 *Barry v Corrigan*, No. 13-cv-13185, 2015 WL 136238 (ED Mich Jan 9, 2015), the Court concluded that notices the Department sent clients and applicants from December 30, 2012, to January 9, 2015 denying, terminating, or reducing FIP, SDA, FAP, or CDC benefits due to fugitive felon disqualification violated procedural due process under the Fourteenth Amendment to the U.S. Constitution. The Court's March 31, 2015, Order Regarding...Implementation of the Court's January 9, 2015, Order set forth a process for which applicants or beneficiaries of FIP, SDA, FAP, or CDC benefits from December 30, 2012, to January 9, 2015, could seek restoration of the benefits through an administrative hearing process if those benefits were affected due to fugitive felon disqualification. Petitioner sought restoration of benefits through this administrative hearing process. This Administrative Law Judge is obligated to determine whether Petitioner's benefits were affected due to fugitive felon disqualification pursuant to the Court's March 31, 2015, Order Regarding...Implementation of the Court's January 9, 2015, Order.

At hearing, the Department testified and provided documentary evidence that it did reduce FAP benefits due to fugitive felon disqualification during the relevant time period.

Additionally, Petitioner either applied for or received, or was a member of a group that received, FAP benefits. The Department did reduce FAP benefits during the timeframe from December 30, 2012, to January 9, 2015. On January 13, 2017, the Department received the Opt Out Form completed and signed by Petitioner for the Department to prove an exact amount of FAP benefits denied due to criminal justice disqualification. Department Exhibit D, pg. 22.

On June 7, 2017, the Department calculated Petitioner's eligibility for FAP for February 2013 where she received \$ [REDACTED] but should have received \$ [REDACTED] resulting in a total supplement of \$ [REDACTED]. Department Exhibit E, pg. 23. On June 8, 2017, the Department sent Petitioner a Benefit Notice, DHS 176, that her *Barry v. Lyon* Opt Out for was processed for FAP. Department Exhibit E, pgs. 24-25. On June 12, 2017, the Department issued Petitioner a supplement of \$ [REDACTED] for FAP. Department Exhibit G,

pg. 26. On June 21, 2017, Petitioner filed a Barry v. Lyon Request for Hearing Form, before the deadline date identified on the form, seeking restoration of benefits due to the Department denying, terminating, or reducing FIP, SDA, FAP, or CDC benefits during the timeframe from December 30, 2012, to January 9, 2015. BAM 115. BEM 204, 213, 554, and 556. ERM 202.

During the hearing, Petitioner stated that she misread the form. She thought that she was updating her address with the Department. However, the form was very clear that if you completed and signed the form that you were opting out of the lump sum payment and was requiring the Department to compute the actual amount of FAP benefits entitled to during the contested time period. On June 7, 2017, the Department calculated Petitioner's eligibility for FAP for February 2013 where she received \$ [REDACTED] but should have received \$ [REDACTED] resulting in a total supplement of \$ [REDACTED] Department Exhibit E, pg. 23. On June 8, 2017, the Department sent Petitioner a Benefit Notice, DHS 176, that her Barry v. Lyon Opt Out for was processed for FAP. Department Exhibit E, pgs. 24-25. On June 12, 2017, the Department issued Petitioner a supplement of \$ [REDACTED] for FAP. Department Exhibit G, pg. 26. As a result, Petitioner has received from the Department all of the FAP benefits that she was entitled to during the contested time period..

DECISION

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, determines that the Department did reduce Petitioner's FAP benefits due to fugitive felon status of Petitioner or a member of Petitioner's group during the timeframe of December 30, 2012, through January 9, 2015.

The Department correctly calculated Petitioner's eligibility for FAP for February 2013 where she received \$ [REDACTED] but should have received \$ [REDACTED] resulting in a total supplement due of \$ [REDACTED]. The Petitioner was issued a supplement of \$ [REDACTED] for FAP.

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

Carmen G. Fahie

CF/md

Carmen G. Fahie
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]