



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 15, 2017
MAHS Docket No.: 17-012444
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 November 7, 2017, from Lansing, Michigan. The Petitioner represented herself. The Department was represented by [REDACTED] Family Independence Specialist, and [REDACTED] Assistance Payments Supervisor.

ISSUE

Did the Department of Health and Human Services properly close Petitioner's Family Independence Program (FIP) 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. On May 24, 2017, the Department notified Petitioner that she was approved for Family Independence Program (FIP) benefits effective May 16, 2017, as a group of one as an ineligible grantee. Exhibit A, p 4.
2. On May 24, 2017, the Department notified Petitioner that she was approved for Food Assistance Program (FAP) benefits as a group of two effective May 1, 2017. Exhibit A, p 4.
3. On May 24, 2017, the Department sent Petitioner a FAST Referred Notice, instructing her to complete the Family Automated Screening Tool within 30 days as a condition of remaining eligible for Family Independence Program (FIP) benefits. Exhibit A, p 12.

4. Petitioner completed the FAST on March 21, 2017, August 2, 2017, and September 18, 2017. Exhibit A, p 4.
5. On June 23, 2017, the Department notified Petitioner that her Family Independence Program (FIP) benefits would close effective July 1, 2017. Exhibit A, p 15.
6. On September 19, 2017, the Department received Petitioner's request for a hearing. Exhibit A, pp 2-3.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

The Family Independence Program (FIP) is a temporary cash assistance program to support a family's movement to self-sufficiency. The Family Automated Screening Tool (FAST) is a 50-question, Web-based survey designed to identify an individual's strengths, needs and barriers to family functioning and/or successful employment. The participant's failure to submit the FAST within 30 days of the notice date is failure to meet eligibility requirements. Department of Health and Human Services Bridges Eligibility Manual (BEM) 228 (October 1, 2015), pp 1-24.

On May 24, 2017, the Department notified Petitioner that she was approved for FIP benefits as a group of one. Petitioner is an ineligible grantee for the FIP group as a disabled individual caring for a minor child. Petitioner was approved for FIP benefits effective May 1, 2017, and was not eligible for FIP benefits in April because her prorated benefits from her eligibility date to the end of the month would have been less than \$ [REDACTED]

On May 24, 2017, the Department instructed Petitioner to take the FAST survey as a condition of receiving FIP benefits. When Petitioner failed to record a completed FAST, the Department notified her that her FIP benefits would close effective July 1, 2017.

Petitioner claims to have completed the FAST. Petitioner testified that the Department does not have records of the FAST completion due to a computer error. Petitioner testified that she had a confirmation number confirming her completion of the FAST.

The Department's representative testified that the confirmation number reported by Petitioner does not match any FAST completion on record.

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). Moreover, 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). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), cert den, 318 US 783 (1943).

Although it cannot be confirmed from the Department's FAST record for Petitioner, this Administrative Law Judge finds that Petitioner either completed the FAST within 30 days of the FAST Referred Notice, or reasonably relied upon her good faith belief that she had completed the FAST.

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 did not act in accordance with Department policy when it closed Petitioner's Family Independence Program (FIP) benefits effective July 1, 2017.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2017), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

Petitioner's hearing request indicates that she was protesting the closure of her Food Assistance Program (FAP) benefits. Petitioner failed to establish that there was a negative action with respect to her FAP benefits for which there was a timely request for a hearing. Therefore, Petitioner's hearing request is dismissed with respect to FAP only.

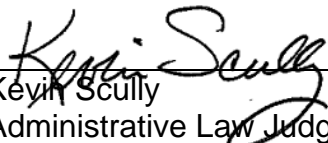
DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER: Initiate a determination of the Petitioner's eligibility for Family Independence Program (FIP) benefits effective July 1, 2017.

Petitioner's hearing request is **DISMISSED** with respect to the Food Assistance Program (FAP) only.

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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]