



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 3, 2017
MAHS Docket No.: 17-002809
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 a federal class action lawsuit entitled, *Barry v Lyon*, No. 5:13-cv-1385, 2015 WL 136238 (ED Mich, January 9, 2015). After due notice, a three-way telephone hearing was held on March 28, 2017, from Lansing, Michigan. [REDACTED] authorized hearing representative (AHR) appeared on behalf of Petitioner. [REDACTED] Eligibility Specialist, appeared on behalf of the Department of Health and Human Services (Department).

The Department offered the following exhibits which were marked and admitted into evidence: [**Department's Exhibit 1**: Hearing Summary, Hearing Request for Food Assistance Program, Hearing Letter, Notice of Case Action, Bridges FAP Gross Income Test, and Bridges FAP-EDG Net Income Results].

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 was a FAP group member in a household size of 4 during the relevant time period.

2. On October 4, 2013, the Department mailed Petitioner a notice of case action which removed Petitioner from the FAP group and reduced the group to a size of 3. The notice further indicated that his FAP benefits were discontinued, denied, or reduced due to disqualification based on a criminal justice disqualification (fugitive felon status) and due to excess income. [Department's Exhibit 1, pp. 4-6].
3. Pursuant to a federal class action lawsuit, the United States Federal District Court (Eastern District) ordered that class members who the Department determined were not eligible for FAP benefits due to fugitive felon status may be eligible for a lump sum FAP payment.
4. At one point in time, Petitioner was a class member in the *Barry v Lyon* federal lawsuit.
5. The Department mailed a letter to Petitioner that indicated he was not eligible for the lump sum FAP payment due to fugitive felon status **and** based on a secondary reason, but that Petitioner may request a hearing to dispute the secondary reason.
6. On March 2, 2017, the Department received Petitioner's request for a FAP hearing to dispute the secondary reason. [Dept. Exh. 1, p. 2].

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.

During the hearing, the Department representative credibly testified that Petitioner was improperly excluded from the *Barry v Lyon* lump-sum class. She explained even if Petitioner would have been disqualified from the FAP group due to fugitive felon status, he would have been included in the group, which would have reduced the size from 4 to 3. She further explained that the FAP group size of 4 with the income at the time would have made the group eligible for some monthly FAP benefits and would not have been excess income. [See Dept. Exh. 1, pp. 7-12]. Petitioner's AHR agreed with the Department representative and did not dispute any of her contentions. Accordingly, the Department representative indicated on the record that Petitioner should be afforded an opportunity to be included as a member in the *Barry v Lyon* lump-sum class.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. There is no active dispute for this Administrative Law Judge to decide and there is no reason for the undersigned to second-guess the Department's assertions where Petitioner's AHR agrees. Any further inquiry would be an inefficient utilization of judicial resources and would not be necessary as the material dispute is resolved.

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 removed Petitioner from the *Barry v Lyon* lump-sum class as indicated by the Department representative.

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:

1. Forward the documentation necessary to provide Petitioner with an opportunity to become a member of the *Barry v Lyon* lump sum class.

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



Petitioner



Authorized Hearing Rep.

