



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 14, 2017
MAHS Docket No.: 17-010518
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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; 42 CFR 438.400 to 438.424; 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 September 12, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Lynda Brown, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

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 is an ongoing FAP recipient.
2. On June 2, 2017, the Office of Child Support (OCS) sent Petitioner a Noncooperation Notice.
3. The Department sent Petitioner a Notice of Case Action on July 7, 2017, notifying her that her FAP benefit case was closed effective August 1, 2017, ongoing, for failing to provide required verifications and her noncooperation with OCS.
4. On August 7, 2017, Petitioner filed a Request for Hearing disputing the Department's actions regarding her FAP case.

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 this case, the Department sent Petitioner a Notice of Case Action on July 7, 2017. The Notice of Case Action informed Petitioner that her FAP benefit case was closed effective August 1, 2017, ongoing, for her failure to provide the Department with required verifications and her noncooperation with OCS. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7.

The Department failed to produce the VCL that was sent to Petitioner and could not provide any information as to its contents, including when it was sent, what verifications were requested or when the proofs were due. Department policy states that the Department must tell the client what verification is required and to use the VCL to request information. BEM 130, p. 3. The Department failed to establish that it followed policy when requesting verifications from Petitioner. Therefore, the Department cannot use Petitioner's failure to provide that information as a basis for the denial of benefits. Thus, the Department failed to act in accordance with policy when closing Petitioner's FAP case.

Department policy also requires the custodial parent of children to comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (January 2017), p. 1. Cooperation is a condition of eligibility. BEM 255, p. 9. Cooperation includes: contacting the support specialist when requested, providing all known information about the absent parent, appearing at the office of the prosecuting attorney when requested, and taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests). BEM 255, p. 9.

Petitioner acknowledged she was initially not cooperative with OCS. Petitioner's child was born [REDACTED], 2017. Petitioner was sent letters by OCS on May 14, 2017, and May 23, 2017, requesting that she contact their office. Petitioner contacted OCS on June 7, 2017. Petitioner stated the putative father's name was [REDACTED], and she did not

know his last name. On July 13, 2017, Petitioner told OCS she did not know the putative father's name at all. Petitioner then returned to the narrative that an individual named [REDACTED] was the father, and she had no other identifying information. At the hearing, Petitioner admitted that she provided false information to OCS. Since the child's birth, Petitioner has known the child's father's actual full legal name, contact information and address. As of the time of the hearing, Petitioner had not provided any of the authentic information regarding the child's father to OCS. Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate from the FAP group effective August 1, 2017. BEM 255, p. 14. Therefore, Petitioner should be disqualified from the FAP group.

The Undersigned only has the authority to address Petitioner's noncooperation with OCS as of the date of the request for hearing. Petitioner is advised that she should contact OCS directly to provide the information concerning the child's father to potentially have the child support sanction removed.

DECISION AND ORDER

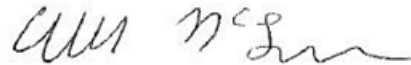
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case for Petitioner's failure to submit required verifications. It is also found that the Department acted in accordance with Department policy when it excluded Petitioner from the FAP group for noncooperation with child support reporting obligations.

Accordingly, the Department's decision is **REVERSED** in part regarding Petitioner's FAP case closure as of August 1, 2017, ongoing. The Department's decision is **AFFIRMED** in part regarding Petitioner's disqualification from the FAP group.

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. Reinstate Petitioner's FAP benefits for August 2017, ongoing;
2. Recalculate Petitioner's FAP benefits, excluding Petitioner as a FAP group member due to her child support sanction;

3. If Petitioner is eligible for FAP benefits, issue FAP supplements Petitioner was eligible to receive but did not as a result of the closure of her FAP benefit case as of August 1, 2017, ongoing; and
4. Notify Petitioner of its decision.



EM/jaf

Ellen McLemore
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

MDHHS-Macomb-20-Hearings

Petitioner



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