



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 9, 2017
MAHS Docket No.: 17-011524
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 October 3, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Cathy Burr, Assistance Payments Supervisor and Cindy Allard, Assistance Payments Specialist.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit 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's FAP group is an ongoing FAP recipient.
2. Petitioner was formerly a member of a two-person group that comprised of herself and her minor child.
3. On July 11, 2017, Petitioner informed the Department that she had resigned her employment with [REDACTED].
4. On July 11, 2017, the Department sent Petitioner a Verification of Employment form.

5. On July 20, 2017, the Department received the completed Verification of Employment indicating Petitioner had quit her job with [REDACTED] (Exhibit B, pp. 1-3).
6. On July 25, 2017, the Department sent Petitioner a Notice of Noncompliance stating she had failed to participate in employment and/or self-sufficiency-related activities for refusing employment (Exhibit C).
7. On July 25, 2017, the Department sent Petitioner a Notice of Case Action stating FAP benefits were approved effective August 1, 2017, ongoing, for a group size of one that consisted solely of her minor child (Exhibit A). Petitioner was informed that she failed to participate in FAP employment-related activities without good cause. Petitioner was also notified that a member of her group failed to participate in employment-related activities without good cause.
8. On [REDACTED], 2017, Petitioner attended an interview with the Department to determine good cause for her noncompliance. Also at the interview, Petitioner disclosed that her 19-year-old son had moved into her household. Petitioner provided a statement of financial aid award for her 19-year-old son (Exhibit D).
9. Petitioner lives in [REDACTED].
10. On August 29, 2017, Petitioner requested a hearing disputing the Department's actions.

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, Petitioner requested a hearing to dispute the Department's actions regarding her and her 19-year-old son's disqualification from the FAP benefit group. Effective January 1, 2017, individuals in Time Limited Food Assistance (TLFA) counties, such as Washtenaw County, must meet specific TLFA work requirements as a condition of FAP eligibility. BEM 620 (January 217), p. 1. All FAP individuals age 18 through 49 are TLFA unless deferred. BEM 620, p. 1. Failure to do so limits the individual's FAP eligibility to three months within a 36-month period. BEM 620, p. 1. TLFA individuals

who meet all other FAP eligibility criteria are eligible for three countable months of FAP benefits during a 36-month period. BEM 620, p. 1.

In order for a FAP benefit month to not be countable, a TLFA individual must perform one of the following: (i) work at least 80 hours monthly (20 hours/week on average); (ii) participate in Michigan Works! Agency (MWA) 80 hours monthly; (iii) work and participate in MWA combined for 80 hours monthly; (iv) participate in MWA-assigned Workfare with the number of hours worked at least equal to the FAP benefit divided by the \$8.90 minimum wage; or (v) engage in self-initiated community service activities for a non-profit organization with the number of hours worked at least equal to the FAP benefit divided by the \$8.90 minimum wage. BEM 620, pp. 1-3.

The Department testified Petitioner's 19-year-old son was disqualified from the FAP group, because he was not working 80 hours per month, as required by TLFA work requirements. The Department presented a statement of financial aid award that indicated Petitioner's 19-year-old son was issued \$4,500 from the Federal Work Study program for the 2017-2018 academic year (Exhibit D). Petitioner's son was enrolled full-time at [REDACTED]. The Department calculated Petitioner's son's work hours by dividing the total aid amount by eight (number of months in an academic year) and then divided that number by minimum wage (\$8.90 per hour). The Department testified it calculated his monthly working hours to be 63.20.

To be deferred from TLFA policy an individual must be one of the following: (i) a member of a FAP group that includes a FAP group member under age 18; (ii) deferred from employment-related activities per BEM 230B; (iii) in any stage of pregnancy; or (iv) determined to be medically certified as physically or mentally unfit for employment. BEM 620, pp. 1-2. One of the criteria for temporary deferral includes individuals in student status. BEM 230B (January 2017), pp. 4-5.

For FAP cases, a person enrolled in a post-secondary education program may be in student status, as defined by Department BEM 245 (April 2017), p. 2. A person in student status must meet certain criteria in order to be eligible for assistance. BEM 245, p. 2. A person is in student status if he is: age 18 through 49 and enrolled half-time or more in a: vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate, or a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245, pp. 2-3. In order for a person in a student status to be eligible for FAP benefits, he must meet certain criteria. BEM 245, p. 4. One of the criterion is participating in a state or federally-funded work study program during the regular school year. BEM 245, p. 4.

Petitioner's son meets the criteria to be in student status. Per Department policy, Petitioner's son is entitled to a deferral from TLFA work requirements based on his student status. Therefore, Petitioner's son is eligible for FAP benefits. Thus, the Department failed to follow policy when it disqualified Petitioner's son from the FAP group.

Petitioner also requested a hearing to dispute her own disqualification from the FAP group. The Department testified Petitioner was disqualified from the FAP group because she resigned employment without good cause. On July 11, 2017, Petitioner informed the Department she resigned her employment. On [REDACTED], 2017, the Department conducted an interview with Petitioner to determine if she had good cause for the resignation. The Department testified that during the interview, Petitioner stated she resigned her position because they refused to give her a pay increase and she felt disrespected. The Department determined Petitioner did not have good cause for the resignation and she was disqualified from the FAP group for the period of August 1, 2017, through January 31, 2018.

Non-deferred adult members of FAP households must comply with certain work-related requirements in order to receive food assistance. BEM 230B, pp. 1-2. Non-deferred adults who are already working may not voluntarily quit a job of 30 hours or more per week without good cause. BEM 230B, p. 2. FAP clients are disqualified if they fail to comply with the requirement. BEM 230B, p. 2.

Petitioner confirmed that she resigned her position with her employer. Petitioner also agreed that she informed the Department that it was due to wage issues. The Department offered a letter from Petitioner's employer that indicates Petitioner was no longer interested in the position due to the salary offered. At the hearing, Petitioner testified the salary was only part of the consideration to resign. Petitioner testified that she had an altercation with another employee and was required to have multiple meetings to address the matter. Petitioner stated she felt she was being "harassed" due to the excessive number of meetings, as she believed the matter had been resolved.

The Department provided sufficient testimony that Petitioner resigned her position without good cause. Petitioner's employer's decision to not give her a pay increase and to make her attend multiple meetings does not constitute good cause. Therefore, the Department acted in accordance with policy when it disqualified Petitioner from the FAP group. However, for a first occurrence, clients are disqualified for a one-month period and six months for any subsequent occurrences. BEM 233B (July 2013), p. 6. In the Notice of Case Action sent on July 25, 2017, Petitioner was notified she would be disqualified from receiving benefits for the period of August 1, 2017, through January 31, 2018. The Department failed to indicate in the Notice of Case Action that Petitioner had previous disqualifications. The Department also did not present any testimony at the hearing as to any previous disqualifications. Therefore, the Department failed to establish that it followed Department policy when it subjected Petitioner to a disqualification period of six months.

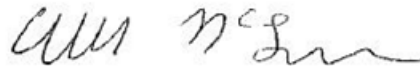
DECISION AND ORDER

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 establish that it acted in accordance with Department policy when it disqualified Petitioner from the FAP group for a six-month period. The Department did not act in accordance with policy when it disqualified Petitioner's 19-year-old son from the FAP group.

Accordingly, the Department's decision is **REVERSED** with respect to Petitioner's disqualification period of six months and Petitioner's son'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. Add Petitioner's 19-year-old son to Petitioner's FAP group as of August 1, 2017, ongoing and recalculate FAP benefits for the group for August 1, 2017, ongoing;
2. If Petitioner's son is eligible for FAP benefits, issue supplements to Petitioner's FAP group that it was entitled to receive but did not from August 1, 2017, ongoing;
3. Replace the six-month FAP employment sanction applied to Petitioner's FAP case on or about August 1, 2017, with a one-month disqualification; and
4. Notify Petitioner of its FAP decision in writing.



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-Washtenaw-Hearings

Petitioner



BSC4
M Holden
D Sweeney
E McLemore
MAHS