



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 16, 2017
MAHS Docket No.: 17-013350
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 November 9, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Karen Jackson, Assistance Payments Supervisor, and Renee Bouche, Lead Child Support Specialist.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits for failing to cooperate with the Office of Child Support (OCS)?

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 an ongoing FAP recipient.
2. On August 8, 2016, the Department sent Petitioner a Noncooperation Notice.
3. On November 2, 2016, Petitioner was placed in cooperation status pending a good cause determination.
4. On November 15, 2017, Petitioner submitted a DHS-2168 Claim of Good Cause.
5. On September 27, 2017, the Department placed Petitioner back in noncooperation status.

6. On September 29, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit amount was being decreased effective November 1, 2017, ongoing, for her failure to cooperate with OCS.
7. On October 9, 2017, Petitioner submitted a request for 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.

Department policy 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.

In this case, OCS placed Petitioner in noncooperation status on August 8, 2016. However, OCS returned Petitioner to cooperative status as of November 2, 2016, pending a good cause determination.

If a client claims good cause, a client must complete a DHS-2168 Claim of Good Cause. BEM 255, p. 4. The Department must make a determination of good cause with 45 days of received the DHS-2168. BEM 255, p. 4. The 45-day time limit may be exceeded only if all of the following apply: (i) the client was already granted an additional 25-day extension to the original 20-day limit; (ii) more information is needed that cannot be obtained within the 45-day limit; and (iii) supervisory approval is obtained. BEM 255, p. 5. A good cause determination can either be approved (continue with child support action), approved (discontinued with child support action), or denied. BEM 255, p. 6.

OCS testified it discovered that Petitioner's case was still pending a good cause determination on August 3, 2017. On September 13, 2017, OCS was advised that Petitioner never submitted a DHS-2168. As a result, OCS placed Petitioner in noncooperation status on September 27, 2017.

The Department testified that Petitioner did submit a DHS-2168 on November 15, 2017. The Department never made a good cause determination, and the DHS-2168 was neither granted nor approved. Therefore, the Department failed to establish that it followed policy when processing Petitioner's claim of good cause. Thus, the Department failed to establish that it followed policy when it disqualified Petitioner from the FAP group and reduced her FAP benefits as a result.

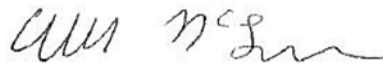
DECISION AND ORDER

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 when it disqualified Petitioner from the FAP group based on noncompliance with OCS.

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. Add Petitioner to the FAP group as of November 1, 2017, ongoing and recalculate FAP benefits for the group for November 1, 2017, ongoing;
2. If Petitioner is eligible for additional FAP benefits, issue supplements Petitioner was eligible to receive but did not from November 1, 2017, ongoing;
3. Notify Petitioner of its FAP decision in writing.



EM/

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-Wayne-57-Hearings

Department Representative

MDHHS-OCS-Hearings

Petitioner



BSC4
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