



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: February 2, 2018
MAHS Docket No.: 17-016452
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 January 29, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Shana Hook, Hearing Facilitator, Pamela Herman, Hearing Facilitator, and Renee Boucher, Lead Child Support Specialist with the Office of Child Support (OCS).

ISSUE

Did the Department properly disqualify Petitioner from her Food Assistance Program (FAP) benefit 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 was an ongoing FAP recipient.
2. On December 12, 2017, OCS placed Petitioner into noncooperation status.
3. Effective January 1, 2018, Petitioner's FAP benefits were reduced because she was disqualified from the FAP group due to her noncooperation with OCS. The Department did not send a Notice of Case Action.
4. On December 18, 2018, 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.

Additionally, 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, Petitioner was disqualified from her FAP group due to noncooperation with OCS. The Department did not send a Notice of Case Action but testified that Petitioner had been disqualified from the group effective January 1, 2018, ongoing. OCS testified that Petitioner was initially placed in noncooperation as of December 12, 2017, because she did not respond to the Final Customer Contact Letter that was sent December 3, 2017. However, Petitioner did contact OCS on December 18, 2017.

During the conversation that occurred on December 18, 2017, Petitioner gave a name and physical description of her child's potential father. According to the case notes written by the OCS worker, there was no "clear match." The OCS worker maintained Petitioner in noncooperation status. At the hearing, OCS was unable to articulate why Petitioner remained in noncooperation status, despite the details given regarding a potential father. The individual that testified at the hearing stated that it was most likely because they were unable to locate an individual that matched the description given by Petitioner. There was very little information provided as to why Petitioner remained in noncooperation status. OCS also failed to provide any supporting documentation. Therefore, there was not sufficient evidence presented that Petitioner was not cooperative with OCS. Thus, the Department failed to establish that it acted in accordance with policy when it continued to disqualify Petitioner from the FAP group.

DECISION AND ORDER

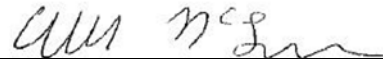
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it continued to disqualify Petitioner from 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 FAP group as of January 1, 2018, ongoing and recalculate FAP benefits for the group for January 1, 2018, ongoing;
2. If Petitioner is eligible for additional FAP benefits, issue supplements to Petitioner that she was entitled to receive but did not from January 1, 2018, ongoing;
3. Notify Petitioner of FAP decision in writing.

EM/cg



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

Via Email:

MDHHS-Calhoun-21-Hearings
M. Holden
D. Sweeney
BSC3-Hearing Decisions

Petitioner – Via First-Class Mail:

