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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 5, 2018
MAHS Docket No.: 17-014178
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 3, 2018 from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly reduce the Petitioner's Food Assistance Program (FAP) benefits based upon noncooperation with the Office of Child Support (OCS) and for failure to participate in employment and/or self-sufficiency related activities?

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 has a household size of two.
2. The OCS and the Department found Petitioner to be in noncooperation with OCS as of September 10, 2014; therefore, Petitioner has been a disqualified group member since 2014.
3. On September 9, 2017, the Department issued a Notice of Case Action effective October 1, 2017 reducing Petitioner's FAP benefits to \$ [REDACTED] based on the

previously notified noncooperation as well as a failure to participate in employment and/or self-sufficiency related activities or quitting a job.

4. Petitioner requested a hearing on October 30, 2017 disputing the September 9, 2017 Notice of Case Action reduction in benefits.

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 disputed the Department's action in reducing her benefits and holding her in noncooperation with the OCS and failure to participate in employment or self-sufficiency activities.

Custodial parents of children must 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. Absent parents are required to support their children. BEM 255, p. 1. Support includes **all** of the following: child support, medical support, and payment for medical care from any third party. BEM 255 (January 2017), p. 1. A client's cooperation with paternity and obtaining child support is a condition of FAP eligibility. BEM 255, pp. 1, 9-13. Cooperation is required in all phases of the process to establish paternity and obtaining support; it includes contacting the support specialist when requested and providing all known information about the absent parent, among other things. BEM 255, p. 9. At application, the client has 10 days to cooperate with the OCS. BEM 255, p. 12. The Department will inform the client to contact OCS in the Verification Checklist (VCL). BEM 255, p. 12. If a client fails to cooperate on or before the VCL due date as required, a disqualification will be imposed. BEM 255, p. 12. For ongoing or active FAP cases, a failure to cooperate without good cause will result in member disqualification of the individual who failed to cooperate. BEM 255, p. 14.

At the hearing, the OCS did not appear. The case had previously been adjourned from December 5, 2017 as a result of the OCS's inability to appear. The Department and

Petitioner decided to proceed without OCS's participation. Since the OCS had not appeared to testify to its documents or mailing of the documents to Petitioner, and because Petitioner indicated she had not received a packet from the OCS, none of the documents sent to the Michigan Administrative Hearing System (MAHS) from the OCS were considered or admitted as exhibits.

Petitioner has discussed the noncooperation agreement with both the OCS and her Department worker. She has advised OCS and her worker of the absent parent's alias, that she does not know his real name, that she only met him one time while at the club, and the location of the club in which they met. In addition, Petitioner has made an effort to identify and locate the absent parent on her own. Petitioner does not have any additional information about the absent parent. Policy only requires that Petitioner cooperate by providing all known information to OCS. BEM 255, p. 9. Petitioner established that she has provided all known information and OCS did not provide any evidence to show that Petitioner was withholding any information concerning her child's father. Therefore, the Department and OCS erred in continuing Petitioner's noncooperation status as of the September 9, 2017 Notice of Case Action.

Turning to issue of employment, self-sufficiency activities, or quitting a job as the reason for the reduction of Petitioner's FAP benefits, the Department was uncertain as to which of these issues caused the reduction of Petitioner's benefits. Recipients of FAP benefits must accept and maintain employment, but they are not required to participate in self-sufficiency activities. BEM 233B (July 2013), p. 1. Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following situations:

- Client is active Family Independence Program (FIP) or Refugee Cash Assistance (RCA) and FAP and becomes noncompliant with a cash program requirement without good cause.
- Client is active RCA and becomes noncompliant with a RCA program requirement.
- Client is pending or active FAP only and refuses employment (voluntarily quits a job or voluntarily reduces hours of employment) without good cause.

BEM 233B, p. 1. Furthermore, **Non-deferred** adult members of FAP households must comply with certain work-related requirements in order to receive food assistance. BEM 230B (January 2017), p. 1-2. In order to receive FAP benefits, non-deferred adults must comply with the following work requirements:

Non-deferred adults must be registered for work and be informed of work requirements.

Non-deferred adults who are already working may not do any of the following:

- Voluntarily quit a job of 30 hours or more per week without good cause.

- Voluntarily reduce hours of employment below 30 hours per week without good cause.

BEM 230B, 2. Non-deferred adults who are not working or are working less than 30 hours per week must:

- Accept a bona fide offer of employment.
- Participate in activities required to receive unemployment benefits if the client has applied for or is receiving unemployment benefits.

BEM 230B, p. 2. At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP. BEM 233B, p. 1.

No evidence was presented that Petitioner is an active FIP or RCA benefit recipient or that she had quit employment. While the Department suggested that Petitioner had quit a job prompting the reduction in benefits, Petitioner testified that she was last employed in 2014 or 2015 with [REDACTED] and did not quit. Petitioner was released from her employment with [REDACTED] as a reduction of the workforce and ultimate closure of the business.

Petitioner admits that she was notified that she needed to obtain employment or participate in self-sufficiency activities approximately two months before the date of the hearing. While BEM 620 requires that FAP recipients must meet specific work requirements to receive benefits otherwise face ineligibility, the policy is not presently applicable to residents of [REDACTED] BEM 620 (January 2017), p. 1. Neither the Department nor the Petitioner identified a due date as to when these requirements must be fulfilled. In addition, the Department failed to identify what activities or why self-sufficiency activities were required. Finally, no evidence was presented that Petitioner refused employment, quit a job, or reduced her hours.

In any case, Petitioner notified the Department that she had been looking for employment and then that she had begun employment with [REDACTED] on [REDACTED] and [REDACTED] in [REDACTED] Michigan. Petitioner has been employed at [REDACTED] since at least early December 2017 although the specific date of hire is unclear. Without additional evidence, the Department has not met its burden of proof as to the reduction of Petitioner's FAP benefits as a result of employment or self-sufficiency activities.

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 found Petitioner to be in noncooperation with the OCS and failed to satisfy its burden of showing that it acted in accordance with Department policy when it found she was required to participate in self-sufficiency activities or gain employment.

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. Remove the OCS sanction applied to Petitioner's case on or about September 10, 2014;
2. Remove the FAP employment sanction applied to Petitioner's case on or about September 9, 2017;
3. Recalculate Petitioner's FAP benefit as of October 1, 2017;
4. If Petitioner remains eligible for benefits and is eligible for a greater benefit rate than previously paid, issue supplements to Petitioner in accordance with Department policy from October 1, 2017 ongoing; and
5. Notify Petitioner in writing of its decision.



AM/kl

Amanda M. T. Marler
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



Petitioner via USPS

