



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 9, 2018
MAHS Docket No.: 18-001138
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 March 5, 2018, from Detroit, Michigan. The Petitioner was represented by Petitioner. [REDACTED], Petitioner's daughter, also appeared as a witness. The Department of Health and Human Services (Department) was represented by [REDACTED], Lead Specialist with the Office of Child Support (OCS).

ISSUE

Did the Department properly disqualify Petitioner's daughter as a Food Assistance Program (FAP) group member for failing to cooperate with the 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 is a recipient of FAP benefits.
2. On December 27, 2017, the Department sent Petitioner's daughter a First Customer Contact Letter which requested that she complete an Online Child Support Response form within 10 days.
3. Petitioner's daughter failed to complete the form within 10 days.
4. On January 6, 2018, the Department sent Petitioner's daughter a Final Customer Contact Letter which requested that she complete an Online Child Support Response form on or before January 14, 2018.

5. Petitioner's daughter failed to complete the form.
6. On January 15, 2018, the Department sent Petitioner's daughter a Noncooperation Notice which notified her that failure to cooperate with the child support program would result in a reduction of benefits.
7. The First Customer Contact Letter, the Final Customer Contact Letter and the Noncooperation Notice were mailed to an address in which Petitioner's daughter no longer resided.
8. On January 24, 2018, Petitioner filed a Request for Hearing disputing the Department's actions.
9. On February 5, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her FAP benefits would decrease effective October 1, 2017.

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.

In this case, the Department testified that it decreased Petitioner's FAP benefits effective January 1, 2018 because her 21-year old daughter failed to cooperate with the OCS. On December 27, 2017, the Department sent Petitioner's daughter a First Customer Contact Letter which requested that she complete an Online Child Support Response form within 10 days of the letter. The Department indicated that Petitioner's daughter failed to respond and, as a result, it sent Petitioner's daughter a Final Customer Contact Letter on January 6, 2018. The Final Customer Contact Letter requested that Petitioner's daughter complete the Online Child Support Response form on or before January 14, 2018. The Department stated that because Petitioner's

daughter failed to complete the form, it sent her a Noncooperation Notice on January 15, 2018. Further, on February 5, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her group's FAP benefits would be decreased effective January 1, 2018.

The First Customer Contact Letter, the Final Customer Contact Letter and the Noncooperation Notice were mailed to an address in which Petitioner testified she had not resided since she learned of her pregnancy in approximately March 2017. Petitioner indicated that any application that she completed would have listed her current [REDACTED] address as her mailing address and not the address to which the letters were mailed.

The Department testified that it used the [REDACTED] address because that was the address on Petitioner's driver's license. However, the Department mailed the VCL to Petitioner's home in an effort to have her daughter contact the OCS. As such, the Department must have been aware that Petitioner's daughter was residing with Petitioner. Further, the Notice of Case Action mailed to Petitioner's home listed Petitioner's daughter as an excluded member. Again, the Department was aware that Petitioner's daughter resided at the La Salle address. Petitioner's daughter testified that she never received the correspondence from the OCS. Because the Department failed to send correspondence to Petitioner's correct address, it is found that it improperly decreased Petitioner's FAP benefits effective October 1, 2017.

Further, Petitioner's daughter testified that her daughter was conceived as a result of a [REDACTED] with [REDACTED]. Petitioner's daughter explained that at age 20, she went to a local bar where a man offered to buy her alcoholic beverages. Petitioner's daughter testified that she allowed the man to buy her the alcoholic beverages and that she consumed the alcoholic beverages even though she was aware that she was under the legal drinking age limit. Petitioner's daughter stated that at some point during the night, [REDACTED],

[REDACTED] . Petitioner's daughter testified that [REDACTED]

Petitioner testified that she does not have any additional information to provide relating to the father of her child. The Department/OCS has not demonstrated that Petitioner has any additional information that she is withholding. As such, it is found that Petitioner has cooperated with the OCS as much as she can.

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 decreased Petitioner's FAP benefits effective January 1, 2018 for failure to cooperate with the OCS.

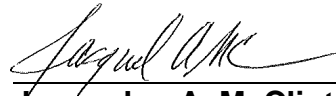
DECISION AND ORDER

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. Reinstate Petitioner's daughter as an eligible group member if otherwise eligible effective February 1, 2018;
2. Place Petitioner's daughter into cooperation status with the OCS;
3. Issue supplements Petitioner's group was eligible to receive but did not effective February 1, 2018; and
4. Notify Petitioner in writing of its decision.

JAM/tlf



Jacquelyn A. McClinton
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 First-Class Mail:

