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

RICK SNYDER
GOVERNOR

SHELLY EDGERTON
DIRECTOR

MI

Date Mailed: June 26, 2018
MAHS Docket No.: 18-004876
Agency No.:
Petitioner:

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 June 21, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Kathleen Scorpio-Butina, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application based upon a permanent disqualification from previously established Intentional Program Violations (IPV)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On May 9, 2018, the Department received a hearing request from Petitioner disputing the denial of her FAP application; Petitioner signed and dated the hearing request for April 3, 2018, indicating that she had been aware of the denial well before May 9, 2018.

2. The date of the denial of FAP benefits is unclear.

3. The Eligibility Summary indicates that Petitioner was denied FAP benefits on May 14, 2018.

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, the timeline of events in relation to any actions taken by the Department and Petitioner's hearing request is unclear. In any case, a FAP client can request a hearing disputing the current level of benefits at any time within the benefit period. Petitioner is disputing a repeated denial of FAP benefits based upon previous findings of three intentional program violations.

At the hearing, the Department presented some evidence from a Consolidated Income Inquiry FNS eDRS report showing that Petitioner had two previous sanctions from 1997 and 2000. The Hearing Facilitator could not identify what FNS eDRS means, but traditionally when addressing benefits cases, FNS is the Food and Nutrition Service. Therefore, it is likely that these are FAP benefit sanctions. The Department also submitted an internal memorandum from a recoupment specialist to someone who is presumably another Department worker indicating Petitioner was found guilty of an IPV and disqualified from FAP from July 1997 through June 1998. This is consistent with the FNS eDRS report. Finally, the Department presented a Recoupment Tracking System Record showing Petitioner had a Family Independence Program (FIP) IPV repayment beginning in July of 1995. Petitioner admits that she had one IPV, but does not remember any other IPVs.

A lifetime disqualification in FAP cases only applies if a recipient has been found to have committed three IPVs within the same program. BAM 720 (October 2017), pp. 16, 20. Since the Department was only able to show at most two IPVs within the FAP, the Department has not met its burden of proof in establishing a life time sanction for FAP IPVs.

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 denied Petitioner's application for FAP benefits based upon a lifetime sanction for three IPVs.

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. Redetermine Petitioner's FAP application relevant to the May 9, 2018, request for hearing;

2. If Petitioner is otherwise eligible for benefits, issue supplements to Petitioner for benefits not previously issued; and

3. Notify Petitioner in writing of its decision.

AMTM/

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) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

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Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

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DHHS   Dora Allen
                                 MDHHS-Wayne-76-Hearings

DHHS   Lauren Casper
                                 MDHHS-Macomb-20-Hearings

Petitioner   ███████████

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                                 M Holden
                                 D Sweeney
                                 A M T Marler
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