



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: July 10, 2018
MAHS Docket No.: 18-005414
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 July 9, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Tonya Davis, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In 2015, Petitioner was in student status, which rendered her ineligible to receive FAP benefits.
2. On April 10, 2018, Petitioner applied for FAP benefits. Petitioner's application reported that Petitioner was not a student.
3. On an unspecified date, MDHHS requested verification from Petitioner that she was no longer a student.

4. On May 3, 2018, MDHHS denied Petitioner's application for FAP benefits on the basis that Petitioner was in student status and ineligible to receive FAP benefits. (Exhibit A, pp. 1-2)
5. On May 8, 2018, Petitioner submitted to MDHHS a document dated May 7, 2018, from her former school stating that she was not a registered student. (Exhibit A, p. 3)
6. On May 24, 2018, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denied application for FAP benefits. MDHHS presented a Notice of Case Action (Exhibit A, pp. 1-2) dated May 3, 2018. The notice informed Petitioner that her application was denied because she was in student status.

A person enrolled in a post-secondary education program may be in student status. A person in student status must meet certain criteria in order to be eligible for assistance. A person is in student status if he/she is:

- Age 18 through 49 and
- Enrolled half-time or more in either a:
 - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
 - Regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245 (January 2018), pp. 2-4).

When Petitioner applied for FAP benefits, it is assumed that she reported to MDHHS that she was not a student. The only basis that MDHHS had to believe otherwise was Petitioner's student status in 2015. MDHHS contended that Petitioner's student status from 2015 justified requesting verification of Petitioner's non-student status. MDHHS' contention was unpersuasive for multiple reasons.

First, the only "verification requirement" (i.e., when MDHHS policy authorizes a verification request) for student status related to FAP benefits is when there is a need to verify home schooling for minor children (see BEM 245). MDHHS could also be justified in verifying an absence of student status if there is some reasonable basis to believe

that a client in school. In the present case, MDHHS justified their need for verification based on Petitioner's student status from three years earlier. Petitioner's status as a student from three years earlier is not a reasonable basis to require Petitioner to prove she is not a student. Thus, MDHHS was not justified in requiring Petitioner to verify the absence of her student status.

For good measure, Petitioner verified her non-student status with a document submission to MDHHS on May 8, 2018. The document is presumed to be from Petitioner's former school and stated that she was not currently registered. MDHHS testimony indicated the document was unacceptable because it was printed by Petitioner from her former school's website rather than from the school itself. MDHHS allows for "acceptable documentation that is on official business letterhead" to verify a student's status. BEM 245 (January 2018), p. 11. Petitioner's submission was not technically on official business letterhead but appeared to be a reliable document that should have sufficed as acceptable verification that Petitioner was not a college student.

Thirdly, MDHHS testimony indicated that an investigator subpoenaed Petitioner's school records and verified that Petitioner was no longer a student. Despite verifying Petitioner's lack of student status, MDHHS did not process Petitioner's application.

Based on the evidence, MDHHS improperly found Petitioner to be in student status. MDHHS will be ordered to process Petitioner's application.

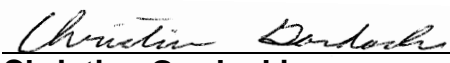
DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's FAP application. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FAP application dated April 10, 2018; and
- (2) Process Petitioner's application subject to the findings that Petitioner was not in student status and that Petitioner did not fail to verify student status.

The actions taken by MDHHS are **REVERSED**.

CG/



Christian Gardocki
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:

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

DHHS

LaClair Winbush
MDHHS-Wayne-31-Hearings

Petitioner

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BSC4
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