



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: February 8, 2018
MAHS Docket No.: 18-000161
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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, an administrative hearing was held on February 7, 2018, from Lansing, Michigan. Petitioner appeared and testified. The Department of Health and Human Services (Department or Respondent) was represented by Susan Engel, Hearings Facilitator, and Alicia Schultz, Family Independent Specialist.

ISSUE

Did the Department properly deny Petitioner's request for her own Food Assistance Program (FAP) case on the grounds of group composition?

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 19-year-old female who has a minor child.
2. Petitioner and her child reside with Petitioner's biological mother. Petitioner's biological mother is not Petitioner's legal mother. Petitioner and her child had their own FAP case approximately 5 months prior to the action disputed herein. Petitioner's case switched to a different worker who made Petitioner part of her biological mother's FAP case.
3. On [REDACTED] 2017, Petitioner applied to have her own FAP case reopened.

4. On October 25, 2017, Respondent denied Petitioner's request on the grounds that Petitioner is a member of different FAP case and lives with her biological mother.
5. Petitioner's biological mother is not her legal parent. Petitioner was adopted when she was approximately "8 or 9". Testimony of Petitioner.
6. On January 3, 2018, Petitioner filed a hearing request stating in part: "I was taken off my own case and added to my mother's...we are getting enough food. This has been going on for 5 months...I would like to have my case reopened me and my daughter should not be starving." Exhibit A.3.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

Department policy applicable to the case here is identified on the Hearing Summary as BANM 105, 115, 130, 220 and BEM 212, 220, 221, 223, 225, 400, 500, 554. The Department witness testified that a FAP recipient is not entitled to a separate FAP case if that individual is under 22 and living with a parent. BEM 212.

The Department witness here testified that Petitioner is entitled to have her own case on the grounds that she is not living with a legal parent. Petitioner was adopted as a child. The Department further testified that it was unaware of this and did not seem to have a copy of Petitioner's birth certificate in the file.

While the record does not reflect what happened to the Department's verification used by the previous worker to verify Petitioner's own FAP group, Petitioner has the burden. As Petitioner failed to bring forth evidence to establish that her biological mother is not

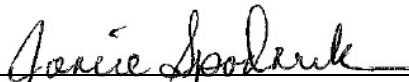
her legal parent, the action must be upheld. However, Petitioner understands that she would be entitled to a separate case with proper verification of her legal parent.

Based on the record established in this matter and the applicable law, Respondent's action must be upheld.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JS/hb



Janice Spodarek
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

DHHS

Kathleen Verdoni
411 East Genesee
PO Box 5070
Saginaw, MI 48607

Saginaw County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
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[REDACTED] MI [REDACTED]