



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: August 26, 2019
MOAHR Docket No.: 19-007700
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on August 21, 2019, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Juanita Munoz and Anissa Ali of the Office of Child Support.

ISSUE

Did the Department of Health and Human Services (Department) properly sanctioned Petitioner's Food Assistance Program (FAP) and Medicare Savings Program (MSP) benefits for noncooperation with the Office of Child Support?

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 an ongoing recipient of Medical Assistance (MA) under the PCR category as of July 5, 2019. Exhibit A, p 5.
2. Petitioner is an ongoing recipient of Food Assistance Program (FAP) benefits as a group of two and Petitioner is a disqualified adult in the household. Exhibit A, p 6.
3. On August 11, 2017, Petitioner was found to be noncooperative with efforts of the Office of Child Support to identify and locate the absent parent of one of her children. Exhibit A, p 11.

4. On July 5, 2019, the Department notified Petitioner that she was eligible for ongoing Food Assistance Program (FAP) benefits with a \$353 monthly allotment effective June 1, 2019. Exhibit A, pp 12-16.
5. On July 5, 2019, the Department notified Petitioner that she was not eligible for the Medicare Savings Program (MSP) effective August 1, 2019. Exhibit A, pp 17-19.
6. On July 18, 2019, the Department received Petitioner's request for a hearing protesting the reduction of her Food Assistance Program (FAP) benefits and the closure of her Medicare Savings Program (MSP) benefits. Exhibit A, p 4.

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.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (July 1, 2019), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. The custodial parent or alternative caretaker 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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits. Department of Human Services Bridges Eligibility Manual (BEM) 255 (April 1, 2019), pp 1-2.

On August 11, 2017, the Department determined that Petitioner had been noncooperative with efforts of the Office of Child Support to identify and locate the absent parent of one of her children.

Petitioner's July 18, 2019, request for a hearing is not timely with respect to her disqualification effective August 11, 2017, because it was not received with 90 days of the Department sending notice of that action.

On July 5, 2019, the Department determined that Petitioner was eligible for ongoing FAP benefits as a group of two because she is not eligible as a disqualified household member as directed by BEM 255.


Upon receipt of a new application for assistance when there is an ongoing disqualification for noncooperation with the Office of Child Support, the Department is required to notify clients of their duty to cooperate with the Department's efforts to identify and locate absent parents. In this case, there was no new application for assistance. Petitioner should provide the Office of Child Support with all information she has about the absent parent, but the Department was acting in accordance with BEM 255 when it continued the sanction of Petitioner's benefits. Further, the Department was acting in accordance with BEM 255 when it closed Petitioner's MSP benefits for noncooperation with the Office of Child Support.

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 acted in accordance with Department policy when it disqualified Petitioner from the Food Assistance Program (FAP) benefit group, and closed Petitioner's Medicare Savings Program (MSP) benefits due to an ongoing sanction for noncooperation with the Office of Child Support.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
Administrative Law Judge
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

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

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

DHHS

Jeanette Cowens
2524 Clark Street
Detroit, MI 48209

Department Representative

Office of Child Support (OCS)-MDHHS
201 N Washington Square
Lansing, MI 48933

Wayne County (District 41), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]