



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 14, 2020
MOAHR Docket No.: 20-004436
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, a telephone hearing was held on August 4, 2020.

Petitioner appeared unrepresented.

The Department of Health and Human Services (Department) was represented by Lacy Miller, Hearings Coordinator. Patricia Bregg, Lead Worker with the Child Support Office appeared later during the hearing.

Department Exhibit A.42 was submitted and accepted into the record.

ISSUE

Did the Department properly process Petitioner's Food Stamps (FS) after the removal of Petitioner's Child Support sanction?

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 had been in noncompliance with the Child Support Office with the Michigan Department of Health and Human Services (MDHHS) since July 18, 2013.
2. Since July 18, 2013, due to the Child Support sanction, Petitioner has been excluded from her household FS group.

3. On May 1, 2019, Petitioner's son turned [REDACTED]
4. On April 28, 2020 Petitioner contacted the Child Support Office regarding the sanction at which time the office issued verification indicating that the Child Support sanction was no longer in effect since May 1, 2019.
5. On May 7, 2020 Respondent issued a Notice of Case Action informing Petitioner that her Food Assistance Program (FAP) benefits will increase effective April 1, 2020. Exhibit A.33.
6. On May 20, 2020, Petitioner filed a hearing request asking for FAP benefits retro to May 1, 2019.

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.

Applicable policy and procedure are found at BAM 105, 220, 300, 400, 406, 502; BEM 212, 255. Corresponding federal regulations are found at 7 CFR 273.11.

In this case, Child Support Noncooperation policy and procedure requires that the client contact the Office of Child Support (OCS) to have a sanction removed. See applicable BAM and BEM.

Here, evidence indicates that Petitioner did not contact the OCS until April 2020, to inquire about the child support sanction. At that point, the OCS issued verification that due to Petitioner's son reaching the age of majority, the OCS is no longer allowed to apply the sanction regardless of whether Petitioner continues to be noncooperative. As such, the local office increased Petitioner's FAP benefits pursuant to the April 20, 2020, notice, adding Petitioner to the FAP group April 1, 2020. The local office has no authority to grant benefits prior to the date that the OCS issues a cooperation letter, despite the date on the letter reflecting Petitioner's son's birthdate.

However, Petitioner argued that the sanction should have been removed effective May 1, 2019, and that she should receive retro FAP benefits from May 1, 2019, until April 1, 2020.

Petitioner also argued that she repeatedly called the OCS without avail multiple times during the year.

The Department here testified that multiple notices have been sent to Petitioner since 2013 informing her of the procedures and policies to have the child support sanction removed. Those communications require the client to contact the OCS. Petitioner failed to present any evidence to support her statements of having repeatedly called the Department. In fact, upon cross examination, Petitioner demonstrated that she was actually referring to multiple phone calls with the Friend of the Court and not the MDHHS child support office. While one can see how the misunderstanding can result, Petitioner nevertheless had no evidence of contacting the child support office with the MDHHS prior to April 2020. Petitioner has failed to meet her burden of proof.

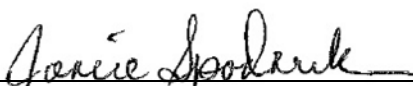
As policy does not allow the local office to remove the sanction prior to the notification from the child support office and the change in the system, and as this was not done until April 20, 2020, the actions taken by the Department here must be upheld as they are in compliance with Department policy and federal. Law.

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 removed the child support sanction upon notice from the Office of Child Support on April 20, 2020, and added Petitioner to the FAP group effective April 1, 2020.

DECISION AND ORDER

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

JS/hb



Janice Spodarek
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

Eaton County via electronic mail

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
MI