



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 11, 2017
MAHS Docket No.: 17-009029
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 9, 2017, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Vanessa Pulliam, Eligibility Specialist and Olivet Gordon, FIM.

ISSUE

Did the Department properly deny the Petitioner's application for Food Assistance (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. The Petitioner applied for Food Assistance (FAP) on [REDACTED] 2017. Exhibit C
2. The Department denied the Petitioner's Food Assistance (FAP) application on July 28, 2017 due to Petitioner's lifetime disqualification to receive FAP benefits based upon her record of Intentional Program Violations. Exhibit. A and Exhibit B
3. On November 2, 2009, the Petitioner was sent an Intentional Program Violation Client Notice advising her that she was disqualified for FIP benefits for a Lifetime from December 1, 2009 and that she was disqualified for FAP benefits for a Lifetime. Exhibit B. The Notice advised the Petitioner that she had been found

guilty by a court or an administrative hearing judge of knowingly misrepresenting her circumstance or knowingly breaking a program rule. Petitioner was further advised that if she was dissatisfied with the court's decision she could appeal to circuit court. Exhibit B

4. The Petitioner received the November 2, 2009 Intentional Program Violation Client Notice.
5. Petitioner received a notice (undated) from the Department that there had been a security breach of information regarding her information. Petitioner Exhibit 1
6. The Petitioner requested a timely hearing on [REDACTED], 2017 protesting the Department denial of her application.

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 Petitioner applied for FAP benefits on [REDACTED] 2017. The Department sent the Petitioner a Notice of Case Action denying the application on June 28, 2017, for the reason that the Petitioner had received a lifetime disqualification from receiving Food Assistance on November 2, 2009 by the issuance of an Intentional Program Violation Client Notice effective December 1, 2009. Exhibit B

The Petitioner was no longer eligible for FAP benefits after the lifetime disqualification. The lifetime disqualification was never challenged by the Petitioner at the time she received the November 2, 2009 Notice. Due to the Petitioner's failure to file a hearing request or appeal to the decision to circuit court, the lifetime disqualification stands. The Petitioner can no longer challenge the Notice as the time for appealing the decision has long since passed. The disqualification decision and Notice occurred more than 7 years ago. The Petitioner also acknowledged on the record at the hearing that she had received the Intentional Program Violation Client Notice when it was issued. Department policy found in PAM 720 was in effect at the time of Petitioner's disqualification and allowed for a lifetime disqualification be imposed after the third IPV was found to have been committed. PAM 720 (October 2003), p. 12. The Petitioner

also presented an undated letter from the Department indicating that there had been a security breach of the DHHS Gratiot/Seven Mile server occurred and that “potentially sensitive information regarding your eligibility may have been compromised”. The letter is sent from DHHS Wayne County Central Administration. Petitioner Exhibit 1. The letter was offered by Petitioner to suggest that there may have been identity theft involved with her IPV. The evidence presented did not support this suggestion and as explained the remedy regarding the Food Assistance lifetime disqualification was for Petitioner to appeal the Decision at the time it was issued.

Based upon the evidence presented and the testimony of the witnesses, it is determined that the Department properly denied the Petitioner’s FAP application due to her lifetime FAP disqualification as of December 1, 2009.

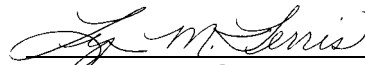
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied the Petitioner Food Assistance application.

DECISION AND ORDER

Accordingly, the Department’s decision is

AFFIRMED.

LF/hw



Lynn M. Ferris
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

MDHHS-Wayne-57-Hearings
BSC4-HearingDecisions
FAP
(via email)

Petitioner

[REDACTED]
[REDACTED]
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