



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 25, 2017
MAHS Docket No.: 17-012537
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 October 23, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Aisha Evans, Assistance Payments Worker. The Office of Child Support (OCS) was contacted, but no one was present to testify.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits for failing to cooperate with the Office of Child Support (OCS)?

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 was an ongoing FAP recipient.
2. On December 29, 2016, OCS sent Petitioner a Noncooperation Notice.
3. On December 29, 2016, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit amount was being reduced because she was disqualified from the FAP group due to her noncompliance with OCS.
4. On August 16, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit amount was being increased because she was no longer disqualified from the FAP group.

5. On September 9, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit amount was being reduced because she was disqualified from the FAP group due to her noncompliance with OCS.
6. On September 11, 2017, Petitioner requested a hearing disputing the Department's actions.

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.

Additionally, Department policy requires the custodial parent of children to 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. BEM 255 (January 2017), p. 1. Cooperation is a condition of eligibility. BEM 255, p. 9. Cooperation includes: contacting the support specialist when requested, providing all known information about the absent parent, appearing at the office of the prosecuting attorney when requested, and taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests). BEM 255, p. 9.

In this case, Petitioner was sent a Notice of Case Action on December 29, 2016, informing her that her benefits were decreased for her failure to cooperate with OCS. Petitioner was sent a First Customer Contact Letter from OCS on December 9, 2016, requesting that she contact their office within 10 days. OCS sent the Petitioner a Final Customer Contact Letter on December 19, 2016. On December 29, 2016, OCS sent Petitioner a Notice of Noncompliance stating she was found to be noncompliant because she failed to respond to the contact notices and did not provide any information to identify the natural father of her child.

In July 2017, at the request of the Department, Petitioner provided a letter to OCS with information pertaining to her child's father. Petitioner stated she complied with the requests of OCS to the best of her ability and believed she had been compliant with OCS. On August 16, 2017, the Department sent Petitioner a Notice of Case Action informing her that her benefits were being increased because she was in compliance with OCS and would no longer be disqualified from the group. However, on September 9, 2017, the Department sent Petitioner a Notice of Case Action informing

her that her benefits were being decreased because she had been disqualified from the group as a result of her noncompliance with OCS.

A request for a hearing must be submitted within 90 days from the date of the written notice of case action. BAM 600 (April 2017), p. 6. However, an exception applies to FAP cases and a request for a hearing disputing the current level of benefits may be made any time within the benefit period. BAM 600, p. 7. "Current" is interpreted to refer to the client's eligibility as of the hearing request month. Based on Petitioner's hearing request submission from September 11, 2017, Petitioner may dispute September 2017 FAP eligibility ongoing. Petitioner was not timely in her request for hearing to dispute the Department's December 29, 2016 action.

Petitioner testified she wrote a letter to OCS at their request and complied with OCS to the best of her ability. The Department did not present any evidence that contradicted Petitioner's testimony. OCS was not present to provide testimony as to why Petitioner was still considered to be noncompliant. Additionally, the Department was advised to send documents to support its case, but as of the time the decision was written, the documents had not been received. Therefore, the Department failed to establish that it acted in accordance with policy when it continued to disqualify Petitioner from the FAP group based on her noncompliance with OCS.

DECISION AND ORDER

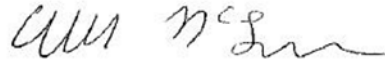
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it continued to disqualify Petitioner from the FAP group based on noncompliance with OCS.

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Add Petitioner to FAP group as of September 1, 2017, ongoing and recalculate FAP benefits for the group for September 1, 2017, ongoing;
2. If Petitioner is eligible for additional FAP benefits, issue supplements to Petitioner that she was entitled to receive but did not from September 1, 2017, ongoing;

3. Notify Petitioner of FAP decision in writing.



EM/

Ellen McLemore
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-Oakland-2-Hearings

Petitioner



BSC4
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