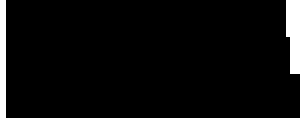




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: February 7, 2018
MAHS Docket No.: 17-015582
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, telephone hearing was held on January 18, 2018, from Lansing, Michigan. The Petitioner was represented by his authorized hearing representative [REDACTED] of the Monroe County Opportunity Program. Petitioner testified on his own behalf. The Department was represented by Krista Bailey.

ISSUE

Did the Department of Health and Human Services (Department) properly determine the amount of supplemental Food Assistance Program (FAP) benefits that Petitioner was eligible to receive?

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 a member of a Food Assistance Program (FAP) benefit group in a two-person household from July 1, 2014, through November 30, 2014. Exhibit I.
2. On May 1, 2014, the Department sent notice to Petitioner's Food Assistance Program (FAP) benefit group that they were eligible for benefits as a group of one based on a criminal justice disqualification. Exhibit C.
3. Petitioner was sentenced to 12 months of probation on April 29, 2009, by the 1st Judicial Court of Monroe County. Petitioner Exhibit 1.

4. On January 5, 2017, the Department sent Petitioner a Notice of “Lump Sum” Payment for Back Benefits MDHHS Owes You Based on the Barry v. Lyon Lawsuit with instructions to return a claim form. Exhibit A.
5. On July 24, 2017, the Department sent Petitioner a claim form for deceased class members. Exhibit A.
6. On August 9, 2017, the Department received Petitioner’s completed deceased class member claim form. Exhibit F.
7. From July 1, 2014, through September 30, 2014, Petitioner’s benefit group would have been eligible for a \$44 monthly allotment of Food Assistance Program (FAP) benefits as a group of two but actually received a \$15 monthly allotment due to the criminal justice disqualification. Exhibit G.
8. From October 1, 2014, through November 30, 2014, Petitioner’s benefit group would have been eligible for a \$56 monthly allotment of Food Assistance Program (FAP) benefits as a group of two but actually received a \$16 monthly allotment due to the criminal justice disqualification. Exhibit G.
9. On September 14, 2017, the Department notified Petitioner that he was eligible for a \$167 supplement of Food Assistance Program (FAP) benefits. Exhibit A.
10. On October 31, 2017, the Department received Petitioner’s request for a hearing protesting the size of supplemental Food Assistance Program (FAP) benefits that he was granted. Exhibit A.

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 *Barry v Corrigan*, No. 13-cv-13185, 2015 WL 136238 (ED Mich Jan 9, 2015), the Court concluded that notices the Department sent clients and applicants from December 30, 2012 to January 9, 2015 denying, terminating, or reducing FIP, SDA, RAP, or CDC benefits due to fugitive felon disqualification violated procedural due process under the Fourteenth Amendment to the U.S. Constitution. The Court’s March 31, 2015 Order Regarding...Implementation of the Court’s January 9, 2015 Order set

forth a process for which applicants or beneficiaries of FIP, SDA, RAP, or CDC benefits from December 30, 2012 to January 9, 2015 could seek restoration of the benefits through an administrative hearing process if those benefits were affected due to fugitive felon disqualification.

Petitioner was a member of a FAP benefit group in a two-person household from July 1, 2014, through November 30, 2014. On May 1, 2014, the Department sent notice to Petitioner's FAP benefit group that they were eligible for benefits as a group of one based on a criminal justice disqualification.

In accordance with a court order stemming from the class action litigation in *Barry V. Corrigan*, the Department sent Petitioner's benefit group notice on January 5, 2017, of the potential for supplemental FAP benefits with instructions to return a claim form. Petitioner is not a member of the class because he failed to establish that a timely claim form was received by the Department within 30 days of January 5, 2017.

On July 24, 2017, the Department sent Petitioner a claim form for deceased class members, which was returned on August 9, 2017. Petitioner remained eligible for supplemental FAP benefits based on the finding of the *Barry v. Corrigan* court that his due process rights had been violated but was required to establish that he was eligible for a FAP supplement based on his circumstances during that period.

From July 1, 2014, through September 30, 2014, Petitioner's FAP benefit group was eligible for a \$44 monthly allotment of FAP benefits as a group of two but actually received a \$15 monthly allotment due to the criminal justice disqualification. From October 1, 2014, through November 30, 2014, Petitioner's benefit group would have been eligible for a \$456 monthly allotment of FAP benefits as a group of two but actually received a \$16 monthly allotment due to the criminal justice disqualification. From July 1, 2014, through November 30, 2014, Petitioner's benefit group received FAP benefits totaling \$77 but would have been eligible for \$244 except for the criminal justice disqualification. On September 14, 2017, the Department notified Petitioner that he was eligible for a \$167 supplement of FAP benefits.

Petitioner testified that during the relevant period he was a "fugitive felon" and should have been the subject of the criminal justice disqualification. Petitioner testified that it was not his father that had been disqualified from the FAP group.

However, regardless of whether it was Petitioner or his father that had been disqualified from FAP, Petitioner remains eligible for supplemental FAP benefits. Petitioner is not eligible for supplemental FAP benefits granted to class beneficiaries of the *Barry V. Corrigan* beneficiaries because he has failed to present evidence that he submitted a claim form timely to the January 5, 2017, notice. Regardless of whether it was Petitioner or his father that was disqualified from FAP in 2014, no one from the benefit group submitted a timely claim form making the group a member of the class.

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 properly

determined the supplemental Food Assistance Program (FAP) benefits that Petitioner was eligible to receive.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
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

SSPC
2651 Coolidge Rd, Suite 100
East Lansing, MI
48823

Petitioner

