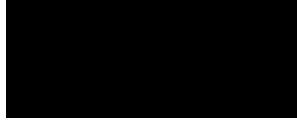




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: January 12, 2018
MAHS Docket No.: 17-015609
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 3, 2018, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Arnesia Woods, and Theresa Sharpe, Office of Child Support Lead Worker.

ISSUE

Did the Department of Health and Human Services (Department) determine Petitioner's eligibility for Food Assistance Program (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. On August 21, 2010, Petitioner was found to be noncooperative with attempts by the Office of Child Support to identify and locate the absent parent of her child. Exhibit C.3
2. Department records indicate that Petitioner was found to noncooperative after failing to respond to requests for information on April 24, 2010, and June 22, 2010. Exhibit C.
3. On November 4, 2017, the Department received Petitioner's application for Medical Assistance (MA) and Food Assistance Program (FAP) benefits. Exhibit A.

4. On November 9, 2017, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting that she provide verification of her cooperation with the Office of Child Support by November 20, 2017. Exhibit B.
5. Petitioner contacted the Office of Child support on January 31, 2017, March 24, 2017, November 13, 2017, November 14, 2017, and December 11, 2017.
6. On November 13, 2017, the Department received Petitioner's request for a hearing protesting the reduction of the size of her Food Assistance Program (FAP) benefit group.

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.

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 (January 1, 2018), pp 1-2.

On August 21, 2010, Petitioner was found to be noncooperative with attempts by the Office of Child Support to identify and locate the absent parent of her child. The Department placed a sanction on Petitioner's benefits due to this noncooperation as directed by BEM 255.

This noncooperation sanction remained in place when Petitioner applied for FAP and MA benefits on November 4, 2017. On November 9, 2017, the Department requested that Petitioner contact the Office of Child Support and provide verification of her

cooperation so that her eligibility for benefits could be accurately determined. Petitioner contacted the Office of Child Support several times but did not provide sufficient information to identify the absent parent of her child.

At application, client has 10 days to cooperate with the Office of Child Support. The Department will inform the client to contact the Office of Child Support by sending a verification check list. The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true:

- There is a begin date of non-cooperation in the absent parent logical unit of work.
- There is not a subsequent comply date.
- Support/paternity action is still a factor in the child's eligibility.
- Good cause has not been granted nor is a claim pending; see Good Cause for Not Cooperating in this item.

BEM 255, p 12.

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. The remaining eligible group members will receive benefits. BEM 255, p 14.

The Department's representative testified that Petitioner's application was denied for failure to cooperate with the Office of Child Support.

This Administrative Law Judge finds that the Department was not actin in accordance with BEM 255 when Petitioner's application for FAP benefits was denied without considered the eligibility of the other members of her household for FAP benefits as directed by BEM 255.

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 did not act in accordance with Department policy when it denied Petitioner's application for Food Assistance Program (FAP) benefits.

DECISION AND ORDER

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:

Reprocess Petitioner's [REDACTED], 2017, application for Food Assistance Program (FAP) benefits in accordance with policy.

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

Clarence Collins
4733 Conner
Detroit, MI
48215

Wayne 57 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Department Representative

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

Petitioner

