



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: February 5, 2018  
MAHS Docket No.: 17-016493  
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 31, 2018, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Amy Wright, Family Independence Manager, and Elizabeth Trompen, Eligibility Specialist.

**ISSUE**

Did the Department of Health and Human Services (Department) properly sanction Petitioner's 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. Petitioner was a Food Assistance Program (FAP) recipient.
2. On November 22, 2017, the Department received a Verification of Employment (DHS-38) confirming that on November 9, 2017, her employment had ended after she was fired. Exhibit A, pp 2-3.
3. Department records indicate that on December 6, 2017, Petitioner's application for Family Independence Program (FIP) benefits was denied. Exhibit A, p 11.
4. On December 6, 2017, the Department sent Petitioner a Notice of Noncompliance (DHS-2444) informing her that she had refused or failed to participate as required in employment and/or self-sufficiency related activities on November 16, 2017. Exhibit A, pp 5-6.
5. The Department held a triage meeting on December 13, 2017. Exhibit A, p 5.
6. Petitioner was found to be non-cooperative with Food Assistance Program (FAP) related employment related activities on December 14, 2016. Exhibit A, p 7.

7. Department records indicate that on December 19, 2017, Petitioner received verbal notification that the Food Assistance Program (FAP) benefits had been sanctioned. Exhibit A, p 11.
8. On December 19, 2017, the Department received Petitioner's request for a hearing protesting the sanction placed on her Food Assistance Program (FAP) benefits for refusing suitable employment. Exhibit A, pp 9-10.

### **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.

The Department requires participation in employment and/or self-sufficiency-related activities associated with the Family Independence Program (FIP) or Refugee Cash Assistance (RCA). Applicants or recipients of Food Assistance Program (FAP) only must accept and maintain employment. The policies in BEM 233B apply to all FAP applicants and recipients age 16 and over. Department of Health and Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 1.

The goal of the Family Independence Program (FIP) penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance. Department of Health and Human Services Bridges Eligibility Manual (BEM) 233A (April 1, 2016), p 1.

Refusing suitable employment means doing any of the following:

Voluntarily reducing hours or otherwise reducing earnings.

Quitting a job (see exception below).

Firing for misconduct or absenteeism.

Department of Health and Human Services Bridges Eligibility Manual (BEM) 233A (April 1, 2016), p 3.

Non-deferred adult members of FAP households must comply with certain work-related requirements in order to receive food assistance. However, unlike cash benefits, which are tied to participation in Partnership. Accountability. Training. Hope. (PATH), there are no hourly PATH requirements for the Food Assistance Program. In order to receive FAP benefits, non-deferred adults must comply with the following work requirements:

Non-deferred adults must be registered for work and be informed of work requirements.

Non-deferred adults who are already working may not do any of the following:

Voluntarily quit a job of 30 hours or more per week without good cause.

Voluntarily reduce hours of employment below 30 hours per week without good cause.

Department of Health and Human Services Bridges Eligibility Manual (BEM) 230B (January 1, 2017), pp 1-2.

Disqualify non-deferred adults who were working when the person: Voluntarily quits a job of 30 hours or more per week without good cause, or Voluntarily reduces hours of employment below 30 hours per week without good cause, or Note: If the job quit or reduction in hours occurred more than 30 days prior to the application date, no penalty applies.

Department of Health and Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 4.

Petitioner was a FAP recipient and FIP benefits had been denied on December 6, 2017. On November 22, 2017, the Department had received verification that Petitioner had lost her job after being fired. On December 6, 2017, the Department sent Petitioner a Notice of Noncompliance (DHS-2444). A triage meeting was held on December 13, 2017, where Petitioner was given the opportunity to establish good cause for her noncompliance. Petitioner did not attend the triage meeting and the Department did not find good cause. Petitioner's FAP benefits were then sanctioned as a second offense.

No evidence was presented on the record that Petitioner was receiving cash assistance and FAP benefits when she was fired from her job. Therefore, the appropriate requirements for Petitioner to continue to receive FAP benefits are listed in BEM 233B and the requirements of BEM 233A are not relevant to her case. Department policy sets forth different requirements for FAP recipients that do not receive cash assistance.

FAP recipients must accept and maintain employment. Refusal to accept employment without good cause may result in a work-related sanction. For recipients of cash assistance, refusing suitable employment includes firing for misconduct or absenteeism. For recipients of FAP benefits who do not receive cash assistance, the Department will disqualify non-deferred adults when the person voluntarily quits a job or voluntarily reduces hours of employment below 30 hours of work per week without good cause.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that Petitioner did not voluntarily quit or reduce her work hours but was involuntarily fired from her job. It was not appropriate to sanction Petitioner's FAP benefits in accordance BEM 230B and 233B, and no evidence was presented on the record that the Department attempted to apply BEM 620 (Time Limited Food Assistance) to Petitioner's circumstances.

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 sanctioned Petitioner's 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:

Delete the non-cooperation sanction from Petitioner's Food Assistance Program (FAP) benefits case for the non-cooperation date of November 16, 2017. Initiate a determination of the Petitioner's eligibility for Food Assistance Program (FAP) benefits as of December 1, 2017, in accordance with policy and issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/nr

  
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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**

Theresa Ergang  
121 Franklin SE  
Grand Rapids, MI  
49507

Kent County DHHS- via electronic mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

