



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 20, 2018
MAHS Docket No.: 18-010667
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, a telephone hearing was held on November 14, 2018, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Richkelle Curney and Tiffany Heard, representing the Office of Child Support.

ISSUE

Did the Department of Health and Human Services (Department) properly sanction Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) 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 an ongoing Food Assistance Program (FAP) and Medical Assistance (MA) recipient.
2. On September 29, 2018, the Department notified Petitioner that she had been disqualified from her Food Assistance Program (FAP) benefit group for noncooperation with the Office of Child Support. Exhibit A, pp 13-14.
3. On October 1, 2018, the Department notified Petitioner that she was not eligible for Medical Assistance (MA) effective November 1, 2018. Exhibit A, pp 15-16.

4. On October 10, 2018, the Department received Petitioner's request for a hearing protesting her disqualification from the Food Assistance Program (FAP) and Medical Assistance (MA) programs. Exhibit A, pp 2-8.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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

Petitioner was an ongoing FAP and MA recipient who subjected herself to interviews by the Office of Child Support in July of 2018, for the purposes of identifying and locating the absent parent of her child. On or around September 29, 2018, the Department determined that Petitioner had not provided any verifiable information about the absent parent of her child and sanctioned her MA and FAP benefits. The representative of the Office of Child Support testified that it appeared that she was trying to cooperate.

Petitioner testified that she had provided the Department with all information about the absent parent of her child that is known to her.

In this case, Petitioner credibly asserted under oath that she has no further information regarding the absent parent of her child and the Department failed to offer any evidence supporting a finding that Petitioner is withholding any information or its otherwise failing to cooperate with the Department's efforts to identify and locate the absent parent.

Therefore, the Department has failed to establish by a preponderance of evidence that Petitioner has failed to cooperate with the Office of Child Support.

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 Medical Assistance (MA) and Food Assistance Program (FAP) benefits for noncooperation with the Office of Child Support.


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:

1. Delete the noncooperation sanction from Petitioner's benefits file.
2. Initiate a determination of Petitioner's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) effective November 1, 2018.
3. Provide Petitioner with written notice describing the Department's revised eligibility determination.
4. Issue Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/hb



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) 763-0155; 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

Department Representative

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

DHHS

Tara Roland 82-17
8655 Greenfield
Detroit, MI 48228

Wayne County (District 17), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

