



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: December 14, 2018
MAHS Docket No.: 18-011608
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 December 10, 2018, from Detroit, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Pathway to Potential Success Coach and [REDACTED], Recoupment Specialist.

ISSUE

Did the Department properly remove Petitioner from the Food Assistance Program (FAP) group due to Intention Program Violation (IPV) effective November 1, 2018?

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 is a recipient of FAP benefits.
2. On September 26, 2018, a hearing was held in which the Department sought a finding that Petitioner committed an Intentional Program Violation (IPV) of the Food Assistance Program (FAP) benefits.
3. The Department also sought an overissuance (OI) for FAP benefits.
4. A Decision and Order was issued on September 26, 2018 which held that Petitioner committed an IPV and was subject to an OI in the amount of [REDACTED].

5. The September 26, 2018 Decision and Order was not appealed within the required 30-day period.
6. On October 02, 2018, the Department sent Petitioner an Intentional Program Violation Client Notice which notified Petitioner that she had been disqualified from the FAP group from November 1, 2018 through October 31, 2019, and further notified Petitioner that she was required to repay [REDACTED]
7. On October 31, 2018, Petitioner submitted a Request for Hearing relating to the October 2, 2018 Intentional Program Violation Client Notice.

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 this case, the Department testified that because there had been a Decision and Order issued indicating that Petitioner committed an IPV, it removed her from the FAP group which effectively reduced the FAP benefits received by the group. Department policy requires that after a hearing decision has been issued finding that a client has committed an IPV, the Department is to notify the client of an IPV recoupment and disqualification actions via the DHS-4357, IPV Client Notice. Further, Department policy states that only hearing requests challenging the overissuance benefit reduction or repayment amount (not the overissuance amount) are granted. BAM 720 (October 2017), pp. 18-19.

Petitioner testified that she never received the IPV hearing packet, Notice of Hearing related to the IPV hearing or the September 26, 2018 Decision and Order because it was sent to the incorrect address. The address listed on the September 26, 2018 Decision and Order is [REDACTED]. During the hearing, the Department confirmed that the [REDACTED] address was not listed in the address history on Petitioner's case. However, the undersigned does not have jurisdiction to reverse a decision that has become final. Further, because the September 26, 2018 Decision and Order was not appealed within 30 days and is now final, the Department was required to removed Petitioner from the FAP group.

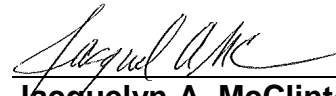
Petitioner was provided with the hearing packet. Petitioner expressed her intent to request reconsideration of the September 26, 2018 hearing as she did not have notice of the hearing.

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 acted in accordance with Department policy when it removed Petitioner from the FAP group effective November 1, 2018.

DECISION AND ORDER

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

JAM/tlf



Jacquelyn A. McClinton
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

Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]