

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2011-37585
Issue No: 2024; 3015; 6019
Case No: [REDACTED]
Hearing Date:
July 21, 2011
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on July 21, 2011. Claimant appeared and provided testimony. Claimant also appeared with her designated representative, [REDACTED].

ISSUES

1. Did the department properly exclude the claimant from her group composition for Food Assistance Program (FAP) and Medical Assistance (MA) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was a recipient of FAP and MA benefits at all times pertinent to this hearing.
2. In January 2010, the claimants FAP and MA benefits were reduced as the claimant's group size was reduced from 6 to 5.
3. The claimant filed a hearing request on January 11, 2011.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1)

Clients have the right to contest a department decision affective eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) was established pursuant to the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

For purposes of establishing group composition and eligibility for FAP benefits, department policy provides that parents and their children under 22 years of age who live with them are considered part of the same FAP group. BEM 212. For purposes of establishing group composition and eligibility for MA benefits, department policy provides that only persons living with one another can be in the same group. BEM 211. To "live with" means to share a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. BEM 211, BEM 212. A person who is temporarily absent from the FAP or MA group is considered living with the group so long as:

- His location is known; and
- He lived with the group before his absence; and
- There is a definite plan for his return; and
- The absence has lasted or is expected to last 30 days or less (unless the absent person is in the hospital and there is a plan for him to return home, in which case the absence may last longer than 30 days). BEM 211, BEM 212.

In this case, it appears from the testimony of the record that in January 2010, the claimant's group size was changed; reduced from 6 to 5. The testimony indicates that the reason that the claimant's group size changed was because the claimant was no longer being included in the group composition. The department representative stated

that he believed that this was an accurate recitation as to what had transpired with the claimant's case.

The department also stated that there was a case note in the file stating that there had been a request submitted to include the claimant in her group composition and therefore change the claimant's group size to 6 for her FAP benefits retroactive back to the change in January 2010. The department could not provide a reason as to why the claimant's group size had been decreased, and could further not confirm whether or not the reduction was proper.

Because there was no reason available as to why the claimant's group size was reduced by leaving her out of the group, this Administrative Law Judge finds that the department has not met their burden to show that the actions taken regarding the claimant's group size were taken in accordance with department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not met their burden of showing that it acted in accordance with policy in excluding the claimant from the group composition and budgeting her FAP and MA benefits according to that group size.

Accordingly, the department's actions are REVERSED.

It is HEREBY ORDERED that:

1. The department shall recalculate the claimant's FAP benefits back to January 1, 2010 including the claimant in the group composition and issues any retroactive benefits that the claimant may be entitled to, and
2. The department shall recalculate the claimant's MA benefits back to January 1, 2010 including the claimant in the group composition and issue any retroactive benefits that the claimant may be entitled to.

/s/ _____
Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 15, 2011


Date Mailed: August 16, 2011

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CS/tg

cc:

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