

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

IN THE MATTER OF:



Reg. No: 20122933  
Issue Code: 3012, 3014  
Case No: [REDACTED]  
Hearing Date: November 8, 2011  
Wayne County DHS #55

**ADMINISTRATIVE LAW JUDGE:** COREY A. ARENDT

**HEARING DECISION**

This matter is before me 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 November 8, 2011. The Claimant and Department appeared by telephone and provided testimony.

**ISSUE**

Did the Department properly determine and award Food Assistance Program (FAP) benefits to the Claimant?

**FINDINGS OF FACT**

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

1. As of July 14, 2011, the Claimant had an active FAP case.
2. On July 14, 2011, the Claimant submitted an application to add two children to her case. At this time, the Claimant submitted a court order to the Department verifying the children were now in her home and not in the home of another person.
3. On or around July 14, 2011, the Department verified the two children were on another Claimant's (Person A) case for FAP benefits and were currently included in Person A's group.
4. In September of 2011, the Department removed the two children from Person A's group and added the children to the Claimant's case. The Department paid benefits on the two children to Person A during the months of July, August and September.
5. On September 26, 2011, the Claimant filed a hearing request regarding the Departments inability to timely add the children to her case.

6. In October 2011, the Claimant began receiving benefits for the two additional children.

### **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 affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The FAP (formerly known as the Food Stamp (FS) program) was established by 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 administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. (BAM 105). This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. BAM 105.

Bridges assists the Department in determining who must be included in the FAP group. The FAP group composition is established by determining BEM 212:

- Who lives together.
- The relationship(s) of the people who live together.
- Whether the people living together purchase and prepare food together or separately.
- Whether the person(s) reside in an eligible living situation.

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. Spouses who are legally married and live together must be in the same group. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. BEM 212.

Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share only an access area (e.g., entrance or hallway) or non-living area (e.g., laundry) are not considered living together. BEM 212.

**A member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. BEM 212.**

A member add that increases benefits is effective the month after it is reported **or**, if the new member left another group, the month after the member delete. In determining the potential FAP benefit increase, Bridges assumes the FIP/SDA supplement and new grant amount have been authorized. BEM 212.

**When a member leaves a group to apply on his own or to join another group, do a member delete in the month you learn of the application/member add.** Initiate recoupment if necessary. If the member delete decreases benefits, adequate notice is allowed. BEM 212.

Based on the unrebutted and credible testimony of the Claimant and the Department, I find the Claimant requested the addition of her two children on July 14, 2011 and at that time provided the necessary documentation to prove the legitimacy of the request. It was at that time, the Department should have taken the necessary steps to remove the children from Person A's claim and add them to the mothers with an effective date of August 1, 2011. Based on the evidence presented, the Department did not remove the children from Person A's claim until sometime in September 2011.

Accordingly, I find the Agency's actions are **REVERSED**.

### **DECISION AND ORDER**

I find, based upon the above findings of fact and conclusions of law, the Department improperly determined the Claimant's FAP eligibility in this matter.

Accordingly, the Department's actions are **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a redetermination of the Claimant's group size and corresponding eligibility beginning August 1, 2011 and to issue retroactive benefits if otherwise eligible and qualified.

/s/ \_\_\_\_\_  
Corey A. Arendt  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: November 10, 2011  
Date Mailed: November 14, 2011

20122933/CAA

**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.

CAA/cr

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