

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2012-65762  
Issue No.: 3014  
Case No.: [REDACTED]  
Hearing Date: August 27, 2012  
County: Wayne (55)

**ADMINISTRATIVE LAW JUDGE:** Susan C. Burke

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 27, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED]

**ISSUE**

Did the Department properly exclude Claimant's foster child from Claimant's Food Assistance Program (FAP) group?

**FINDINGS OF FACT**

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

1. On May 25, 2012, the Department was notified of [REDACTED] being a foster child of Claimant and being in Claimant's household. (Exhibit 1)
2. [REDACTED] was on another person's FAP case, so the Department did not include him in Claimant's group. (Exhibit 2)
3. Claimant requested a hearing, protesting the exclusion of her foster child from her group on July 17, 2012.

**CONCLUSIONS OF LAW**

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

BEM 212, p. 4, instructs:

Re-evaluate primary caretaker status when any of the following occur:

- A new or revised court order changing custody or visitation is provided.
- There is a change in the number of days the child sleeps in another caretaker's home and the change is expected to continue, on average, for the next twelve months.
- A second caretaker disputes the first caretaker's claim that the child(ren) sleeps in their home more than half the nights in a month, when averaged over the next 12 months.
- A second caretaker applies for assistance for the same child.

In the present case, the Department was notified of Claimant being the foster parent of [REDACTED] on May 25, 2012. The Department did not re-evaluate primary caretaker status as of that date, as required by BEM 212.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly calculated Claimant's FAP benefits     improperly calculated Claimant's FAP benefits by not including Claimant's foster child in her FAP group.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

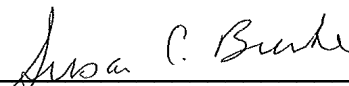
did act properly.     did not act properly.

Accordingly, the Department's FAP calculation decision is  AFFIRMED  REVERSED for the reasons stated on the record.

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

1. Initiate re-evaluation of the primary caretaker status of Da'veonne Gray as of May 25, 2012.

2. Initiate recalculation of Claimant's FAP benefits, May 25, 2012 and ongoing.
3. Issue FAP supplements for any missed or increased payments, May 25, 2012 and ongoing, regardless of whether [REDACTED] was on another case at the time.



Susan C. Burke  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: September 4, 2012

Date Mailed: September 4, 2012

**NOTICE:** Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at  
Michigan Administrative hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

SCB/cl

cc:

[REDACTED]

Wayne County DHS (55)/DHS-1843

[REDACTED]

[REDACTED]

[REDACTED]

S.

Burke