

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

IN THE MATTER OF:



Reg. No.: 2013-29766
Issue No.: 3014
Case No.:
Hearing Date: March 20, 2013
County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 March 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included .

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) group composition for January 2013 and February 2013 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. Claimant applied for benefits received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. In January 2013, Claimant notified the Department that her son was to be added as an eligible group member.

3. In February 2013, Claimant notified the Department that her brother was to be added as an eligible group member.

4. On February 13, 2013, Claimant filed a hearing request, protesting the Department's action.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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, R 400.3001 through Rule 400.3015.

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through Rule 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, R 400.5001 through Rule 400.5015.

Additionally, at the hearing, Claimant indicated that her FAP benefits should have increased in January 2013 and February 2013 because Claimant reported a change in

group size. As a preliminary matter, there is no dispute that Claimant has a group size of 3 effective March 1, 2013, ongoing.

The Department increased Claimant's group size from 1 to 3 effective March 1, 2013, ongoing. For FAP purposes, 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 550 (February 2012), pp. 1-3; BEM 212 (November 2012), p. 7. After determining who is in the FAP group, the Department determines if this group is categorically eligible for FAP benefits. BEM 212, p. 8. The Department verifies group composition factors if the information given is questionable. BEM 212, p. 8.

In this case, the Department testified that an application has to be completed for FAP benefits to report an increase in group size. The Department further testified that Claimant completed an Assistance Application form (DHS-1171) in February 2013, indicating that her son and brother would be added to her FAP group size. Subsequently, the Department increased Claimant's FAP group size from 1 to 3 effective March 1, 2013, ongoing.

Claimant testified that she went to the Department office in January 2013 to complete a DHS-1171 form and report that her son was to be added to her group size. However, Claimant testified that the Department informed her that an application was not necessary and only a Change Report Form (DHS-2240) was to be completed to inform the Department of additional group members. Claimant credibly testified that she completed a Change Report Form which reported that her son was to be added as a group member to her FAP benefits. Claimant also testified that she did not report any changes to the Department in regards to group composition before January 2013. Moreover, Claimant testified that she did complete a DHS-1171 as part of her redetermination form in February 2013 which added her brother as an additional group member.

Based on the foregoing evidence, Claimant is not entitled to an increase in group size for January 2013; however, she is entitled to an increase in a group size of 2 for February 2013. Per BEM 212 and 550, a member add that increases benefits is effective the month after it is reported. Claimant properly notified the Department that her son would be added as a group member in January 2013 on the Change Report Form. Therefore, Claimant's FAP benefits should reflect a group size of 2 for February 2013 only. The Department properly applied a group size of 1 for Claimant's January 2013 FAP benefits. Thus, the Department properly calculated Claimant's FAP group composition for January 2013; however, it improperly calculated Claimant's FAP group composition for February 2013.

DECISION AND ORDER

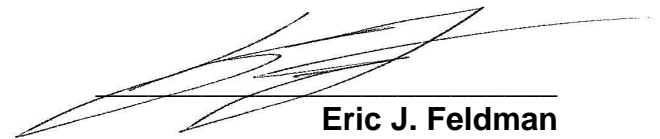
Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly calculated Claimant's FAP group composition for January 2013, but failed to

properly calculate Claimant's FAP group composition for February 2013 in accordance with Department policy.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to Claimant's FAP group composition for January 2013, AND REVERSED IN PART with respect to Claimant's FAP group composition for February 2013.

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

1. Begin recalculating Claimant's FAP group composition from 1 to 2 for February 2013 in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from February 1, 2013, ongoing; and
3. Notify Claimant in writing of its decision in accordance with Department policy.



Eric J. Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 25, 2013

Date Mailed: March 25, 2013

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 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.

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.

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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

EJF/pf

cc:

