

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-34382
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: April 8, 2013
County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 April 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly process Claimant's request to add her five nieces and nephews to her Food Assistance Program (FAP) case?

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 was an ongoing recipient of FAP benefits whose FAP group consisted of herself, her three children and her granddaughter.
2. Claimant advised the Department that her five nieces and nephews lived in her household and asked that they be added to her FAP case.
3. On January 16, 2013, Claimant was granted guardianship over her nieces and nephews and reported this event to the Department.
4. On March 1, 2013, Claimant filed a request for hearing, disputing the Department's failure to add the children to her case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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 Mich Admin Code, R 400.3001 through R 400.3015.

At the hearing, Claimant clarified that she requested a hearing because the Department failed to add her nieces and nephews to her FAP case even after she reported that she had guardianship over the children as of January 16, 2013.

In this case, Claimant credibly testified that her five nieces and nephews had been living in her home for over a year and she was caring for them. A caretaker is a person who provides care or supervision to children under 18 who (i) live with her but (ii) are **not** a natural, step or adopted child. BEM 212 (November 1, 2012), p. 1. A caretaker and the children for whom she acts as a parent and who live with her **must** be in the same group. BEM 212, p. 1. Claimant conclusively established that she was the children's caretaker when she received guardianship over the children on January 16, 2013. The evidence established that she timely notified the Department of this change. See BAM 105 (March 1, 2013), pp. 7-8. Thus, the children were mandatory group members of Claimant's FAP group.

Even though the children were mandatory members of Claimant's FAP group as of January 16, 2013, the Department did not add the children to her FAP group until May 1, 2013. Claimant credibly testified that the Department refused to do so because the children were on their mother's FAP case and the Department had required her to contact the mother's caseworker at another local office to have the children removed from the mother's group. However, when the Department is aware that a person is a mandatory group member, the Department must take action as soon as possible to remove that person from his former group and add him to the new group. BEM 212, p. 8. A member add that increases FAP 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), p. 3; BEM 212, p. 7. In this case, the Department did not act in accordance with Department policy when it failed to (i) timely process Claimant's January 16, 2013 request to add her nieces and nephews to her FAP group and (ii) remove them from their mother's 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 when .

did not act properly when it failed to process Claimant's January 16, 2013, request to add her five nieces and nephews to her FAP case.

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

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

1. Begin processing Claimant's January 16, 2013, request to add her five nieces and nephews to her FAP case 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 January 16, 2013, ongoing; and
3. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 11, 2013

Date Mailed: April 11, 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:

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- 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

ACE/pf

cc:

