

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-41731
Issue No.: 3019
Case No.: [REDACTED]
Hearing Date: May 16, 2013
County: SSPC-EAST (97-98)

ADMINISTRATIVE LAW JUDGE: Eric 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 three-way telephone hearing was held on May 16, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the above-named Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Whether the Department properly denied Claimant's application for Food Assistance Program (FAP) 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. On March 1, 2013, Claimant applied for FAP benefits and an interview was held on April 11, 2013.
2. On April 11, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP application was denied based on excess income, ineligible students, and a group member received FAP benefits in another case. Exhibit 1.
3. On April 16, 2013, the Department received Claimant's written request for hearing disputing the Department's actions concerning the denial of her FAP application. Exhibit 1.

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 Mich Admin Code, R 400.3101 through R 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 Mich Admin Code, R 400.3001 through R 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 R 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 Mich Admin Code, R 400.5001 through R 400.5015.

Concurrent receipt of benefits means assistance received from multiple programs to cover a person's needs for the same time period. BEM 222 (March 2013), p. 1. Benefit duplication means assistance received from the same (or same type of) program to cover a person's needs for the same month. BEM 222, p. 1. A person cannot be a member of more than one FAP Certified Group (CG) in any month. BEM 222, p. 1.

Additionally, the primary caretaker is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period. BEM 212 (November 2012), p. 1. A caretaker is a related or unrelated person who provides care or supervision to a child(ren) under 18 who lives with the caretaker but who is not a natural, step or adopted child. BEM 212, p. 1. This policy does not apply to foster children. BEM 212, p. 1. A person acting as a parent, and the child(ren) for whom he acts as a parent who lives with him, must be in the same group. BEM 212, p. 1. Also, the FAP group may choose to include or exclude a foster child whose foster parent is a group member. BEM 212, p. 2. If excluded, the foster child is not eligible for FAP as a separate group, and the foster care payment is not income to the group. BEM 212, p. 2.

In this case, on March 1, 2013, Claimant applied for FAP benefits and an interview was held on April 11, 2013. On April 11, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP application was denied based on excess income, ineligible students, and a group member received FAP benefits in another case. Exhibit 1. Claimant is only disputing the denial of FAP benefits based on her niece receiving benefits in another case.

At the hearing, Claimant testified to the following: (i) she is the primary caretaker of her niece since July of 2012; (ii) she was awarded custody of her niece; (iii) her niece lives with her; and (iv) her niece is a foster care child. Claimant did not present any documents regarding custody of her niece at the hearing.

Moreover, Claimant testified that five people live in her household, which the Department did not dispute. However, the Notice of Case Action only identified a group size of two because her children and niece were excluded from the group size. See Exhibit 1. The Department also presented as evidence documentation showing that Claimant's niece does receive FAP benefits in another CG. See Exhibit 2.

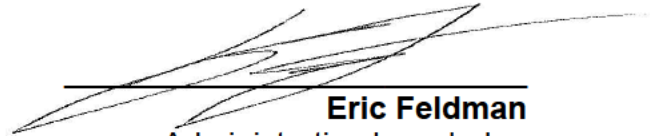
Based on the foregoing information and evidence, the Department properly denied Claimant's FAP application. First, the Department appropriately identified that Claimant's niece cannot be a member of more than one FAP CG in any month. BEM 222, p. 1. Second, Claimant's niece can either be included or excluded in the FAP group as a foster care child. BEM 212, p. 2. If excluded, Claimant's niece is not eligible for FAP benefits as a foster child. BEM 212, p. 2. Third, if Claimant's niece is included in the FAP group, Claimant is still denied due to excess income. Claimant did not dispute that her application was denied due to her excess income or that her children were ineligible students. Claimant is still ineligible due to excess income with a group size of two or three. RFT 250 (October 2012), p. 1. Thus, the Department properly denied Claimant's FAP application in accordance with Department policy.

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 decision is AFFIRMED REVERSED for the reasons stated above and on the record.


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

Date Signed: May 21, 2013

Date Mailed: May 23, 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.

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:

