

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

IN THE MATTER OF:



Reg. No.: 2013-68937
Issue No.: 3019
Case No.: [REDACTED]
Hearing Date: October 16, 2013
County: Wayne (82-19)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 16, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant's August 20, 2013, 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. Claimant had been receiving FAP benefits as a member of a FAP group.
2. On August 20, 2013, Claimant applied online for FAP benefits solely for herself.
3. On August 29, 2013, the Department sent Claimant a Notice of Case Action denying the application because she was active on another case.
4. On September 11, 2013, Claimant filed a request for hearing disputing the Department's action.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, Claimant requested a hearing to dispute the denial of her August 20, 2013, FAP application.

The August 29, 2013, Notice of Case Action denied Claimant's FAP application because Claimant was an active member in another FAP group. A person may not be a member of more than one FAP group in any month. BEM 222 (July 2013), p. 3. In this case, Claimant admitted that she had been living with another individual and had been a member of that person's FAP group. When she received the Notice of Case Action denying her application, her sister contacted the Department's central office in Lansing in September 2013 to have her removed from the other person's FAP group. This evidence established that Claimant was a member of another FAP group at the time of her August 20, 2013, FAP application.

However, an application an individual files on her own is considered a change reported to the Department in writing by an eligible member of the former group. BAM 220 (July 2013), p. 3. When a member leaves a group to apply on his own or to join another group, the Department must do a member delete in the month it learns of the application/member add. BEM 212 (July 2013), p. 9; BEM 550 (February 2012), p. 3. For a new applicant who left another FAP group, FAP benefits are effective the month after the member delete. BEM 550 (February 2012), p. 3. See also BAM 115, p. 8 (providing that even if a client is ineligible for FAP benefits in the month of application, but is eligible for a future month due to changes in circumstances, the Department must process the application for the future month).

In her application, Claimant identified a different address than that of the FAP group she had previously been a member of and did not list any other household members. Therefore, when Claimant applied for FAP benefits on August 20, 2013, under Department policy she was reporting that she was no longer a member of the FAP group she was previously in and the Department should have processed Claimant's application accordingly.

It is further noted that Department policy requires that a FAP applicant be interviewed before the application can be denied even if it is clear from the application or other

sources that the applicant is ineligible for benefits. BAM 115 (July 2013), p. 17. Although it is not clear from the record in this case whether Claimant was interviewed, an interview would have confirmed that Claimant no longer resided with the FAP group of which she had been a member.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant's FAP application.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's August 20, 2013, FAP application;
2. Reprocess the application;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive, if any, but did not from August 20, 2013, ongoing; and
4. Notify Claimant in writing of its decision.



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

Date Signed: October 21, 2013

Date Mailed: October 21, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

