

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-67556
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: November 6, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 November 6, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) group composition for benefit month [REDACTED]/2013.

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 FAP benefit recipient.
2. On [REDACTED]/13, Claimant mistakenly reported that her adult son, Patrick, left the household.
3. On an unspecified date, DHS determined Claimant's FAP benefit eligibility for [REDACTED]/2013 subject to a group composition which excluded Claimant's adult son.
4. On [REDACTED]/13, Claimant reported to DHS that her son remains in the household.

5. On [REDACTED]/13, DHS attempted to adjust Claimant's FAP eligibility but was not successful.
6. On an unspecified date, DHS submitted a help desk ticket to correct Claimant's FAP eligibility.
7. On [REDACTED]/13, Claimant requested a hearing to dispute her FAP benefit issuance for [REDACTED]/2013.

CONCLUSIONS OF LAW

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

Claimant requested a hearing to dispute her FAP benefit eligibility from [REDACTED]/2013. It was not disputed that DHS determined Claimant's FAP eligibility for [REDACTED]/2013 by excluding Claimant's adult son from the determination.

In early [REDACTED]/2013, Claimant mistakenly reported to DHS that her adult son left her household. Claimant called DHS to report her error on [REDACTED]/13. Claimant's DHS specialist assumed that Claimant was entitled to a recalculated FAP benefit determination but this can only be authorized if policy allows it.


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 (7/2013), p. 4. Based on DHS policy, Claimant's reporting date of [REDACTED]/13 was early enough to affect FAP eligibility for [REDACTED]/2013. Accordingly, DHS improperly failed to include Claimant's son in the FAP determination for [REDACTED]/2013.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP eligibility. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility, for [REDACTED]/2013 only, subject to the finding that Claimant's adult son was timely reported as a household member to affect [REDACTED]/2013 FAP eligibility; and
- (2) initiate a supplement of any FAP benefits improperly not issued.

The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/15/2013

Date Mailed: 11/15/2013

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

CG/hw

cc:

