

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 2014-6397
Issue No.: 3014
Case No.: ██████████
Hearing Date: November 18, 2013
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) group composition effective September 10, 2013, ongoing?

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 September 10, 2013, Claimant applied for FAP benefits for herself and her child.
2. On October 7, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were only approved for a group size of one in the amount of \$11 for September 2013. See Exhibit 1.
3. On October 7, 2013, the Notice of Case Action also notified Claimant that her FAP benefits were only approved for a group size of one in the amount of \$16 for October 2013. See Exhibit 1.

4. On October 7, 2013, the Notice of Case Action also notified Claimant that her FAP benefits were only approved for a group size of one in the amount of \$15 effective November 1, 2013, ongoing. See Exhibit 1.
5. On October 16, 2013, Claimant filed a hearing request, protesting her FAP group composition. See Exhibit 1.

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.

Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212 (October 2013), p. 1. 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, p.2.

When a child spends time with multiple caretakers who do not live together such as joint physical custody, parent/grandparent, etc., determine a primary caretaker. BEM 212, p. 3. Only one person can be the primary caretaker and the other caretaker(s) is considered the absent care-taker(s). BEM 212, p. 3. The child is always in the FAP group of the primary caretaker. BEM 212, p. 3.

The Department re-evaluates primary caretaker status when any of the following occur:

- A new or revised court order changing custody or visitation is provided.
- A second caretaker applies for assistance for the same child.

BEM 212, p. 5; See BEM 212 for additional lists for changes in primary caretaker.

In this case, on September 10, 2013, Claimant applied for FAP benefits for herself and her child. However, the Department's hearing summary indicated that Claimant's child was already active on another FAP case with her father. See Exhibit 1. Thus, on October 7, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were only approved for a group size of one in the amount of \$11 for September 2013. See Exhibit 1. On October 7, 2013, the Notice of Case Action

also notified Claimant that her FAP benefits were only approved for a group size of one in the amount of \$16 for October 2013. See Exhibit 1. Also, on October 7, 2013, the Notice of Case Action also notified Claimant that her FAP benefits were only approved for a group size of one in the amount of \$15 effective November 1, 2013, ongoing. See Exhibit 1.

During the hearing, the Department acknowledged that Claimant provided evidence that the child is no longer residing with the father and that the child is now living with the Claimant. Moreover, as part of the hearing packet, Claimant provided evidence that as of August 23, 2013, Claimant and her child are now residing together. See Exhibit 1. The Department testified that Claimant's FAP benefits reflect a group size of two (Claimant and child) effective December 2013, ongoing. Claimant was satisfied with the Department's action and she testified that she is not disputing her FAP group composition of one from September 2013 to November 2013.

Based on the foregoing information, the Department properly calculated Claimant's FAP group composition effective September 10, 2013 to November 2013. The Department acknowledged that Claimant provided evidence that she and her child are currently residing together. See Exhibit 1. Moreover, the Department provided credible testimony that Claimant's FAP benefits reflect a group size of two (Claimant and child) effective December 2013, ongoing. Claimant was satisfied with the Department's action and Claimant testified that she is not disputing her FAP group composition of one from September 10, 2013 to November 2013.

DECISION AND ORDER

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 acted in accordance with Department policy when it properly calculated Claimant's FAP group composition of one from September 10, 2013 to November 2013.

Accordingly, the Department's FAP decision is AFFIRMED.



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

Date Signed: November 21, 2013

Date Mailed: November 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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]