

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201330643
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County DHS: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 [REDACTED] from [REDACTED]. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the composition of the Claimant's benefit group?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing Food Assistance Program (FAP) recipient as a group of two.
2. On [REDACTED] the Department sent the Claimant a Redetermination (DHS-1010) with a due date of [REDACTED].
3. On [REDACTED] the Department received the Claimant's Redetermination form.
4. On [REDACTED], the Department processed the Claimant's Redetermination form after having temporarily closed his benefits.

5. On [REDACTED] the Department determined that the Claimant is not the primary caretaker of his daughter, the daughter's mother is the primary caretaker, and that because of the lapse in the Claimant's benefits, the mother was the first approved for benefits.
6. On [REDACTED] the Department approved the Claimant for Food Assistance Program (FAP) benefits as a group of one.
7. On [REDACTED], the Department closed Medical Assistance (MA) benefits for the Claimant's daughter under his benefits case.
8. The Department received the Claimant's request for a hearing on [REDACTED], protesting the reduction of his Food Assistance Program (FAP) benefit group to one, and the closure of Medical Assistance (MA) benefits for his daughter.

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, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department), administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The Medical Assistance (MA) program is established by 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 (DHS or Department) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

The Claimant was an ongoing Medical Assistance (MA) recipient, and an ongoing Food Assistance Program (FAP) recipient as a group of two. On [REDACTED] the

Department sent the Claimant a Redetermination (DHS-10 10) with a due date of [REDACTED]. On [REDACTED] the Department received the Claimant's Redetermination form. On [REDACTED], the Department processed the Claimant's Redetermination form after having temporarily closed his benefits. On [REDACTED] the Department determined that the Claimant is not the primary caretaker of his daughter, the daughter's mother is the primary caretaker of the daughter, and that because of the lapse in the Claimant's benefits, the mother was the first approved for benefits.

According to Department of Human Services Bridges Eligibility Manual (BEM) 212, "If the child spends virtually half of the days in each month, averaged over a twelve-month period with each caretaker, the caretaker who applies and is found eligible first, is the primary caretaker. The other caretaker(s) is considered the absent caretaker(s)."

In this case, the Department determined that the Claimant is neither the primary caretaker nor the first to be approved for benefits because of the lapse in his benefits from [REDACTED], to [REDACTED].

On [REDACTED], the Department approved the Claimant for Food Assistance Program (FAP) benefits as group of one after determining that the Claimant is the secondary caretaker of his daughter. On [REDACTED] the Department closed Medical Assistance (MA) benefits for the Claimant's daughter under his benefit case because she was approved under the mother's case.

The Department submitted evidence of an investigation into where the Claimant's daughter resides, which determined that the daughter is with her dad (the Claimant) 15 days and the mother 15 days.

The Claimant argued that his daughter sleeps in his home more than half of the nights in each month.

This Administrative Law Judge finds that the Claimant returned his completed Redetermination form in a timely manner and the Department has failed to establish that his benefits should have been terminated for failure to provide information necessary to determine his eligibility to receive benefits. The Department restored benefits almost immediately, and the Claimant did not lose any benefits as a result of how his Redetermination was processed, but he did lose his status as an ongoing recipient of Food Assistance Program (FAP) benefits.

This Administrative Law Judge finds that the Claimant's daughter spends no fewer than half of the days in each month with the Claimant.

This Administrative Law Judge finds that the Claimant applied for benefits and was found to be eligible before his daughter's mother.

Therefore, this Administrative Law Judge finds that the Claimant is the primary caretaker of his daughter. Based on the evidence and testimony available during the

hearing, the Department has failed to establish that it properly determined the Claimant's benefit group composition on [REDACTED] and [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly reduced the Claimant's Food Assistance Program (FAP) group size to one, and improperly closed the Claimant's Medical Assistance (MA) benefits for his daughter.

Accordingly, the Department's Food Assistance Program (FAP) is **REVERSED**.

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

1. Provide the Claimant with a ten-day period to provide clarification of how many nights his daughter sleeps in his home each month.
2. Initiate a determination of the Claimant's eligibility for Medical Assistance (MA) and the Food Assistance Program (FAP) as of [REDACTED].
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.

_____/s/

Kevin

Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 03/20/2013

Date Mailed: 03/20/2013

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

KS/kl

cc:

