

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201340114
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: May 6, 2013
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 May 6, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist; [REDACTED], Family Independence Manager; and [REDACTED], agent with the Office of Inspector General (OIG).

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits based on a reduction in her FAP group size?

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 recipient of FAP benefits.
2. On March 28, 2013, the Department sent Claimant a Notice of Case Action notifying her that, effective May 1, 2013, her FAP benefits would decrease to \$200 because her son was being removed from her FAP group.
3. On April 5, 2013, Claimant filed a hearing request, protesting the reduction in FAP benefits.

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

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.

Additionally, A FAP group includes individuals who live together and purchase and prepare food together. BEM 212 (November 2012), p 1.

The Department testified that Claimant's son was removed from her FAP group when it concluded that he was not living with her. Claimant acknowledged that her son was a student at [REDACTED], but she claimed that he lived with her in her [REDACTED] home and commuted to campus for his work study and for his classes.

A Verification of Student Information completed by the son's employer and submitted to the Department on February 28, 2013, identified the son's address as Claimant's [REDACTED] address. However, the son's paystubs identified an on-campus [REDACTED] address. The Department also contacted an admission clerk at [REDACTED] by telephone who checked the school's computer system and also identified the son's address as the on-campus address.

At the hearing, Claimant credibly testified that her son lived in the home with her, that he commuted a few days a week to campus for his work study and for his classes, and that he had lived on campus in the past but found it more cost-effective to live at home. Claimant's testimony concerning her son's residence was consistent with her statements to the fee agent who investigated her case. Claimant explained that the paystubs referenced the address of the dormitory that contained the dining hall in which her son had his work study. She further explained that this allowed her son to receive his paycheck on the date the check was issued rather than have to wait for it to be sent to his home in [REDACTED].

The foregoing evidence establishes that Claimant's son continued to reside with her. Thus, the Department did not act in accordance with Department policy when it removed the son from Claimant's FAP group and reduced Claimant's FAP benefits.

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 not act in accordance with Department policy when it reduced Claimant's FAP benefits.

Accordingly, the Department's decision is REVERSED.

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

1. Begin recalculating Claimant's FAP budget for May 1, 2013, ongoing, in accordance with Department policy to include Claimant's son as a member of her FAP group;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from May 1, 2013, ongoing; and
3. Notify Claimant in writing in accordance with Department policy of any FAP supplements due to her.



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

Date Signed: 5/14/2013

Date Mailed: 5/14/2013

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

ACE/hw

cc:

