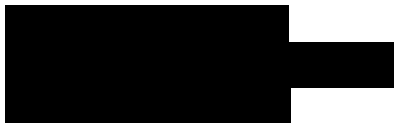


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201358181
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: August 14, 2013
County: Wayne DHS (76)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 14, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility following a reported change in household members.

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. In March 2013, Claimant's son returned to her household.
3. On May 17, 2013, Claimant reported to DHS that her son returned to her household.
4. On June 1, 2013, DHS added Claimant's son to the FAP benefit determination effective July 2013.
5. On July 11, 2013, Claimant requested a hearing to dispute the failure by DHS to affect Claimant's FAP benefit eligibility from April 2013.

CONCLUSIONS OF LAW

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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to change her assigned specialist. Claimant was advised that there is no administrative jurisdiction to address a request of a change in specialists.

Claimant also requested a hearing to dispute an alleged failure by DHS to include her son in a FAP benefit determination beginning in April 2013. It was not disputed that DHS affected Claimant's eligibility beginning July 2013. Thus, Claimant only disputed the FAP eligibility from April 2013 - June 2013.

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 212 (11/2012), p. 7. It was disputed when Claimant reported to DHS that her son returned to live with her.

In response to an inquiry of how she reported the member change to DHS, Claimant testified that she submitted an application to DHS. Claimant initially testified that the application was submitted to DHS in May 2013 before immediately changing her answer to April 2013. During the hearing, the MA benefit application submitted by Claimant was verified as submitted to DHS on June 3, 2013.

After the application submission date was verified, Claimant then testified that she reported the change to DHS as early as March 2013. Typically, clients are reliable at reporting changes that cause increases in benefits, such as an added household member; this tends to support Claimant's testimony. It was also troubling that the testifying DHS specialist conceded that she was not in the DHS office in April 2013; thus, it is reasonably possible that Claimant reported a change to someone other than the testifying specialist.

DHS conceded that Claimant first reported the household member change earlier than June 3, 2013. The DHS specialist testified that she learned of the change of the household members via an unspecified form submitted to DHS on May 17, 2013.

Overall, the DHS testimony and evidence was clear and inconsistent. Claimant's testimony was not. It is found that Claimant reported a household member change to DHS on May 17, 2013.

Based on a May 17, 2013 reporting date, Claimant would be entitled to a change to affect June 2013 FAP eligibility. Accordingly, Claimant is not entitled to a supplement of FAP benefits from April 2013 or May 2013, but is entitled to a supplement for June 2013.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP benefit eligibility from April 2013 – May 2013. The actions taken by DHS are **PARTIALLY AFFIRMED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly affected Claimant's FAP benefit eligibility for June 2013 and its actions are **PARTIALLY REVERSED**. It is ordered that DHS:

- (1) redetermine Claimant's FAP eligibility for June 2013, subject to the finding that Claimant reported to DHS on May 17, 2013, an added household member; and
- (2) supplement Claimant for any benefits not properly issued.



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

Date Signed: August 20, 2013

Date Mailed: August 21, 2013

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

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.

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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/aca

cc:

