

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-58909
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: August 15, 2013
County: Wayne (82-43)

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 August 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

1. Did the Department properly add Claimant's son to her Food Assistance Program (FAP) case?
2. Did the Department properly fail to add Claimants' daughter to her FAP case?

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 is an ongoing recipient of FAP benefits.
2. In late May 2013, Claimant notified the Department that her two children would be joining her household on May 30, 2013, and asked that they be added to her FAP case.
3. Claimant's son was added to Claimant's FAP case effective June 1, 2013, or July 1, 2013.

4. On June 17, 2013, the Department sent Claimant a Verification Checklist (VCL) asking for verification of Claimant's daughter's student status by July 29, 2013.
5. The Department did not receive verification of Claimant's daughter's student status, and Claimant's daughter was not added to Claimant's FAP group.
6. On July 12, 2013, Claimant requested a hearing disputing the Department's actions.

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.

Claimant requested a hearing concerning the addition of her son and daughter to her FAP case. The Department did not present any of the relevant Notices of Case Action applicable to this case. At the hearing, the Department testified that Claimant's son was added to Claimant's FAP case effective June 1, 2013, and that Claimant's daughter was not added to her case because Claimant had failed to verify her daughter's student status. Two issues were presented at the hearing: (1) whether the son was timely added to Claimant's case and (2) whether the daughter was properly excluded based on Claimant's failure to verify requested information.

Addition of Son to FAP Case

In this case, Claimant credibly testified that she reported to the Department in late May 2013 that her children were joining her household effective May 31, 2013. Department policy provides that 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, which must occur in the month the Department learns of the member add. BEM 212 (November 2012), p. 7; BEM 550, p. 3. Thus, Claimant's son should be added to her FAP case as of June 1, 2013.

The Department testified that it added Claimant's son to her FAP case effective June 1, 2013. Claimant disputed the Department's testimony, contending that her son was not added to her case until July 1, 2013. Because the Department did not present a Notice of Case Action or an eligibility summary into evidence to establish when Claimant's son was added to her FAP case, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it added the son to Claimant's FAP

case. See BAM 220 (November 2012), p. 16 (indicating that a notice of case action is sent to clients notifying them of positive changes in their cases).

Addition of Daughter to FAP Case

Individuals who are in student status are eligible for FAP only if they meet one of the eligibility criteria specified in Department policy. BEM 245 (January 2013), pp. 2-4. The Department testified that, because its system showed in its history that Claimant's daughter had attended college, it sent Claimant a June 17, 2013, VCL asking for verification of the daughter's student status. The Department must verify school enrollment for persons age 18 to 49 attending a post-secondary education program. BEM 245, p. 7. For FAP purposes, post-secondary school enrollment can be verified through a DHS-3380, Verification of Student Information; telephone contact with the school; or other acceptable documentation that is on official business letterhead.

Claimant confirmed that she received a VCL sent to her requesting verification of her daughter's student status, but testified that she needed assistance in getting the information and asked the Department for assistance. The Department must assist clients who ask for help in completing forms or gathering verifications. BAM 105 (March 2013), p. 10. The Department testified that it attempted to assist Claimant, but because the school would not release information based on confidentiality grounds, it asked Claimant to provide the school's fax number so it could fax an authorization form signed by Claimant's daughter to the school. However, there was no evidence that the Department ever provided a form to Claimant for her daughter's completion. Also, Claimant indicated that she was unable to obtain the appropriate fax number. Under these facts, the Department failed to establish that it acted in accordance with Department policy in assisting Claimant in obtaining the requested verification of her daughter's student status.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it added Claimant's son to her FAP group and did not act in accordance with Department policy when it failed to assist Claimant in obtaining requested verification necessary to determine her daughter's eligibility to join her FAP group.

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 assisting Claimant in verifying her daughter's student status;
2. Begin processing Claimant's daughter's FAP eligibility as of June 1, 2013, ongoing;

3. Begin recalculating Claimant's FAP budget for June 1, 2013, ongoing in accordance with Department policy to include Claimant's son and, if eligible, Claimant's daughter as FAP group members;
4. Issue supplements to Claimant for FAP benefits she was eligible to receive but did not from June 1, 2013, ongoing;
5. Notify Claimant in writing of its decision.



Alice C. Elkin
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.

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

2013-58909/ACE

ACE/pf

cc:

