

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 2013-69525
Issue No.: 3019;3023
Case No.: ██████████
Hearing Date: October 23, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 October 23, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's Food Assistance Program (FAP) benefits?

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's children were ongoing recipients of FAP benefits.
3. On ██████████, Claimant submitted an application for FAP benefits to be included in the FAP group with her children.
4. On ██████████, the Department sent Claimant a Notice of Case Action informing her that the children were approved for FAP benefits. (Exhibit 2).
5. Claimant was not approved for FAP benefits and her group size remained two.

6. On September 16, 2013, Claimant requested a hearing disputing the Department's actions and requesting FAP supplements for the months that she should have been included as a group member.

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 included in the same FAP group, unless disqualified for failing to cooperate in meeting an eligibility factor, found in BEM 212. BEM 212 (July 2013), pp.1, 8-9.

Additionally, the Department testified that Claimant had previously been found noncompliant with employment related activities and that effective April 1, 2013, Claimant's FAP benefits were decreased and she was disqualified as a FAP group member, reducing her FAP group size to two. The Department testified and Claimant confirmed that this sanction was supposed to end on [REDACTED]. Claimant stated that she was informed that after the penalty period had ended, she could reapply for FAP benefits and that she would be included as a qualified FAP group member.

At the hearing, the Department was unable to explain why Claimant was not included as a FAP group member or why she was not approved for FAP benefits when she applied on [REDACTED]. The Department stated that it is possible that Claimant is in noncooperation with child support requirements, thereby disqualifying her as a FAP group member. Although the Department provided a Non-Cooperation Summary which indicates that in [REDACTED] 01, Claimant failed to cooperate with child support, there is no begin or end date for the penalty to confirm that Claimant is currently noncompliant. (Exhibit 3).

Further, the [REDACTED], Notice of Case Action presented at the hearing does not make any reference to Claimant being disqualified from receiving FAP benefits for any reason, including a failure to cooperate with child support. (Exhibit 2). Claimant testified that she was never informed of any sanction or issue with the Office of Child Support and that she never received any communications regarding a failure to cooperate.

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 because the Department did not present sufficient evidence to establish that Claimant was a disqualified FAP group member at the time of application, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's application for FAP benefits and did not include her in the FAP group with her children.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the sanction/penalty placed on Claimant's FAP case, if any;
2. Register and process Claimant's FAP application;
3. Recalculate Claimant's FAP budget from the date of application ongoing, including Claimant as a qualified group member;
4. Issue supplements to Claimant for any FAP benefits that she was eligible to receive but did not from the date of application ongoing; and
5. Notify Claimant in writing of the Department's decision.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 24, 2013

Date Mailed: October 24, 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

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]