

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-002042
Issue No.: 3001
Case No.: ██████████
Hearing Date: June 30, 2014
County: WAYNE (41)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 June 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████ ██████████, Esq./Claimant's AHR. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearing Facilitator; ██████████, PATH Case Worker; and ██████████, Eligibility Specialist/Interpreter.

ISSUE

Did the Department properly deny Claimant's application for 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 applied for FAP benefits on February 18, 2014.
2. The Department determined that Claimant's two minor children were group members on their mother's open FAP case.
3. On February 18, 2014, the Department sent Claimant a Notice of Case Action notifying him that his application for FAP benefits had been denied because the children were eligible for FAP benefits in another case.
4. On May 6, 2014, Claimant filed a Request for 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), 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, Department policy requires that parents and their children under 22 years of age who live together must be in the same group regardless. BEM 212 (February 2014), p. 1. Further, when primary caretaker status is questionable or disputed, the determination is to be based on the evidence provided by the caretakers, which can include the most recent court order that addresses custody and/or visitation. BEM 212, p. 12.

Claimant applied for FAP benefits on February 18, 2014. When imputing the information provided by Claimant, the Department determined that Claimant's minor children were group members on their mother's open FAP case. As such, the Department sent Claimant a Notice of Case Action on February 18, 2014 notifying him that his application for FAP benefits had been denied.

Claimant testified that at the time of application, his children were living with him on a full-time basis and did not spend any nights at their mother's home. Claimant provided a Default Judgment for Divorce dated [REDACTED] which ordered that he have sole physical custody of the minor children pending their mother's incarceration. Claimant testified that the children's mother was released from incarceration approximately one year ago but that there had been no changes in the custody order. To the extent Claimant's former spouse received benefits to which she was not entitled, the Department is required to initial recoupment. BAM 700 (July 2013), p. 1.

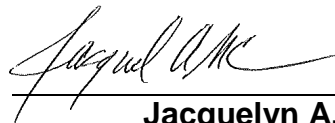
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with policy when it denied Claimant's February 18, 2014 application for FAP benefits.

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. Register and Reprocess Claimant's February 18, 2014 FAP application;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from February 18, 2014 ongoing;
3. Notify Claimant in writing of its decision.



Jacquelyn A. McClinton
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **7/7/2014**

Date Mailed: **7/7/2014**

JAM/cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]