

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-012031
Issue No.: 1001, 3001
Case No.: [REDACTED]
Hearing Date: April 23, 2015
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 April 23, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Health and Human Services (DHHS) included [REDACTED], manager.

ISSUE

The issue is whether DHHS properly excluded Claimant's grandchildren in determining Claimant's Food Assistance Program (FAP) and Family Independence Program (FIP) 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. On an unspecified date in the first half of April 2014, Claimant applied for FIP and FAP benefits.
2. Claimant's application stated that she lived with her grandchildren.
3. On [REDACTED], Claimant submitted guardianship documents to DHHS verifying that Claimant had custody of her grandchildren.
4. As of [REDACTED], Claimant's grandchildren received unspecified benefits on their biological mother's DHHS case.
5. On an unspecified date, DHHS approved Claimant's FIP and FAP eligibility, effective [REDACTED] by factoring Claimant's grandchildren as group members.

6. On [REDACTED] Claimant requested a hearing to dispute the failure by DHHS to factor her grandchildren in her FAP and FIP eligibility from April 2014; Claimant's hearing request also indicated a Child Development and Care and State Emergency Relief dispute.
7. Claimant testified that she has no CDC or SER disputes.

CONCLUSIONS OF LAW

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. DHHS (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. DHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute her FAP eligibility for April 2014 and May 2014. Claimant's only dispute was that DHHS did not factor her grandchildren in her eligibility.

It was not disputed that Claimant listed the grandchildren on her application. DHHS did not factor the children in Claimant's FAP eligibility for 4/2014 and 5/2014 because Claimant's grandchildren were active recipients on their mother's FAP case during those two months.

When a member leaves a group to apply on his own or to join another group, do a member delete in the month you learn of the application/member add. BEM 212 (February 2014), p. 9. Initiate recoupment if necessary. *Id.* Identical policy is found in BEM 550 (see BEM 550 (2/2014), p. 4.

DHHS waited until May 2014 to delete Claimant's grandchildren from their mother's benefit case. The delay adversely affected Claimant's FAP eligibility in May 2014 because DHHS could have added the children to Claimant's FAP case in May 2014. Accordingly, DHHS erred by not adding Claimant's grandchildren to her May 2014 FAP eligibility.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. DHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. DHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant made the same arguments concerning the processing of her FIP application. The analysis is different because above-cited policy only applies to FAP benefits.

For timely reported changes, FIP member additions resulting in a grant increase will affect the month after the month the change occurred. BEM 515 (July 2013), p. 3. For untimely reported member additions resulting in a grant increase, Bridges will reflect the change in the month after the month the change is reported. *Id.*

Based on above cited-policy, it does not matter whether Claimant's change was timely or untimely reported. In either case, DHHS is to affect the month after the change is reported. Thus, DHHS should have affected Claimant's FIP eligibility beginning May 2014, the month after Claimant reported the change. Accordingly, it is found that DHHS improperly excluded Claimant's grandchildren from her FIP eligibility in May 2014.

Recoupment is a DHHS safeguard against issuing duplicate benefits for members within the same benefit month. DHHS testimony stated that recoupment was initiated against Claimant's daughter for improperly receiving benefits in 4/2014 and 5/2014 for her children. Thus, DHHS may ultimately not have issued duplicate benefits for Claimant's grandchildren in the month of May 2014.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHHS improperly excluded Claimant's grandchildren in determining Claimant's FAP and FIP eligibility for May 2014. It is ordered that DHHS perform the following actions:

- (1) redetermine Claimant's FAP and FIP eligibility for May 2014 by factoring Claimant's grandchildren living with her; and
- (2) supplement Claimant for any benefits improperly not issued.

The actions taken by DHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/30/2015**

Date Mailed: **4/30/2015**

CG / hw

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

