

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

IN THE MATTER OF:

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████████████████████8

Reg. No.: 2014-10795
Issue No(s): 3008
Case No.: ██████████
Hearing Date: December 4, 2013
County: Wayne (17)

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 December 4, 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 was an ongoing recipient of FAP benefits.
2. Claimant completed a redetermination on September 27, 2013, on which she informed the Department that her three children were now living with her and needed to be added to her FAP group. (Exhibit 1)
3. On October 29, 2013, the Department sent Claimant a Notice of Case Action informing her that effective December 1, 2013, she was approved for FAP benefits of ██████████ and her group size was increased to six, which included her children. (Exhibit 3)

4. On October 30, 2013, Claimant submitted a hearing request 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 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.

Additionally, the Department determines FAP group composition by applying the factors found in BEM 212. See BEM 212 (October 2013). For FAP purposes, 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. When a member leaves a group to apply on his own or to join another group, the Department is to do a member delete in the month the Department learns of the application/member add and initiate recoupment, if necessary. BEM 550 (July 2013), p. 4; BEM 212 (November 2012), p. 9.

In this case, Claimant requested a hearing concerning the addition of her three children to her FAP case. The Department testified that because there was a delay in completing Claimant's redetermination interview, the children were not removed from the previous case that they were active on and added to Claimant's case until the end of October 2013, which made them eligible to receive benefits effective December 1, 2013. (Exhibits 1 and 3). The Department stated that because the children received FAP benefits on their other case for the month of November 2013, they were not eligible to receive FAP benefits on Claimant's case until December 2013. Claimant disputed the Department's testimony that her children received benefits on another case for November 2013 and the Department did not present any evidence that the children did in fact receive such benefits.

Therefore, because Claimant reported to the Department that her children were now living with her on September 27, 2013, and policy provides that a member add that increases benefits is effective the month after it is reported and that a member delete should be processed in the month the Department learns of it, the Department should have included Claimant's children as members of her FAP group effective October 2013, and initiated recoupment of the FAP benefits issued to the children on the other case, if necessary. BEM 550, p.4; BEM 212, p.9.

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 Department policy when it failed to process Claimant's member add effective October 2013.

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. Recalculate Claimant's FAP budget for October 1, 2013, through November 30, 2013, including Claimant's children as FAP group members;
2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from October 1, 2013, ongoing; and
3. Notify Claimant of its decision in writing.



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

Date Signed: December 9, 2013

Date Mailed: December 10, 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]