

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-17032  
Issue No.: 2004; 3004  
Case No.: [REDACTED]  
Hearing Date: January 9, 2014  
County: Wayne (55)

**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 January 9, 2014, from Detroit, Michigan. Participants included [REDACTED], the spouse of the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUES**

The first issue is whether DHS properly issued Food Assistance Program (FAP) benefits to Claimant following a reported change in household members.

The second issue is whether DHS properly issued Medical Assistance (MA) benefits to Claimant following a reported change in household members.

**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 FAP and MA benefit recipient as a member of a case which factored her spouse, but not her spouse's daughter.
2. Claimant's spouse's daughter was an ongoing FAP and MA benefit recipient as a member of her mother's benefit case.

3. Effective [REDACTED]/13, Claimant's spouse had physical custody of his daughter.
4. On [REDACTED]/13, Claimant's spouse reported to DHS that he obtained custody of his daughter from his daughter's mother.
5. On an unspecified date in [REDACTED]/2013, DHS removed Claimant's spouse's daughter from her mother's benefit case.
6. On [REDACTED]/13, DHS processed Claimant's FAP and MA benefit eligibility, effective [REDACTED]/2014, by factoring that Claimant's spouse's daughter was a household member.
7. On [REDACTED]/13, Claimant requested a hearing to dispute the failure by DHS to factor his daughter's custody in FAP and MA determinations from [REDACTED]/2013, the month he had custody of his daughter.

### **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. 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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

It was not disputed that Claimant and her spouse had custody of Claimant's spouse's daughter since [REDACTED]/2013. Claimant's spouse requested a hearing to dispute the failure by DHS to factor his daughter in FAP and MA benefit determinations from [REDACTED]/2013-[REDACTED]/2013.

It was not disputed that from [REDACTED]/2013 through [REDACTED]/2013, Claimant's spouse's daughter received FAP and MA benefits on her mother's DHS case. A person must not participate as a member of more than one FAP group in any given month. BEM 212 (7/2013), p. 10. This policy is consistent with finding that DHS cannot issue FAP and/or MA benefits to Claimant for [REDACTED]/2013-[REDACTED]/2013 while factoring Claimant's spouse's daughter as a household member.

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. BEM 550 (7/2013), p. 4. This policy also suggests that Claimant is not entitled to a supplement of FAP or MA benefits because DHS updated Claimant's FAP and MA eligibility the month after Claimant's spouse's daughter was removed from her mother's benefit case.

Both of the above-cited DHS policies are supportive that Claimant is not entitled to updated FAP determinations. Both policies could have unjust application if DHS takes an unreasonable time to remove a child from one case before adding the child to another case. In the present case, it was not disputed that Claimant's spouse reported to DHS on [REDACTED]/13 that he had custody of his daughter. DHS did not remove Claimant's daughter from her mother's case until [REDACTED]/3/13, over three months after Claimant's spouse reported to DHS that he had custody of his daughter. The change did not become effective until [REDACTED]/2014, over four months after Claimant's reported a change in custody.

For FAP benefits, DHS is to act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (7/2013), p. 7. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. *Id.* This policy is supportive in finding that DHS erred by not factoring Claimant's spouse's daughter's household presence in Claimant's benefit eligibility in [REDACTED]/2013, the first benefit month after adding 10 days to Claimant's spouse's reporting change date.

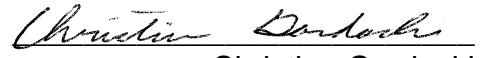
A general policy interpretation rule favors interpreting inconsistencies against the party that drafted the inconsistency. The present case is appropriate to apply the general policy interpretation rule. It is found that DHS should have acted on Claimant's reported change within 10 days after Claimant reported having custody of his daughter. It is further found that DHS should have factored Claimant's spouse's daughter in the MA and benefit determinations beginning [REDACTED]/2013.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP and MA benefit eligibility, effective [REDACTED]/2013. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP and MA benefit eligibility, from [REDACTED]/2013 through [REDACTED]/2013, subject to the finding that Claimant's spouse's daughter was a group member; and
- (2) initiate a supplement of any benefits improperly not issued.

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

  
Christian Gardocki  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 1/14/2014

Date Mailed: 1/14/2014

**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

CG/hw

cc:

