

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

**IN THE MATTER OF:**

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

Reg. No.: 2014 32793  
Issue No(s): 3001  
Case No.: ██████████  
Hearing Date: April 16, 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 April 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearing Facilitator; ██████████, Assistance Payment Worker; and ██████████ Eligibility Specialist and also served as interpreter to Claimant.

**ISSUE**

Did the Department properly exclude Claimant's live-in partner and their minor child as group members on his Food Assistance Program case?

**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 is an ongoing recipient of FAP benefits.
2. On January 15, 2014, Claimant applied to increase his group size to three to include himself, his live-in partner and their minor child.
3. On January 15, 2014, the Department sent Claimant a Notice of Case Action notifying that his application for FAP benefits was approved for a group size of him, as his live-in partner and their minor child were group members on another case.

4. On March 18, 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 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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

#### **SER**

Claimant requested a hearing to dispute the denial of his SER application. Shortly after commencement of the hearing, Claimant testified that his electricity is no longer in shut-off status. Claimant further confirmed that he did not wish to proceed with the hearing concerning his request for SER assistance. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing regarding the SER is hereby **DISMISSED**.

#### **FAP**

Claimant also requested a hearing to dispute the Department's actions regarding his application for FAP benefits. In this case, the Claimant applied to have his group size increased from one to three. The requested increase was to add his live-in partner and their minor child. The Department stated that instead of increasing Claimant's group size, it continued Claimant's FAP benefits with a group size of one because his live-in partner and their minor child were group members on another FAP case. Department policy requires that prior to before determining eligibility, the client is to be given a reasonable opportunity to resolve any discrepancy between his statements and information from another source. (BAM 130, (January 2014) p. 7. The Department did not allow Claimant any opportunity to resolve the discrepancy as it denied Claimant's application for FAP benefits on the same day he applied for the increase in group size.

Claimant credibly testified that his live-in partner and their minor child moved into the home in January 2014. 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 (October 2013), p. 2.

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 approved Claimant's FAP application with a group size of one instead of three. If the Department determines that Claimant's live-in partner and their minor child have resided in his home since January 2014, it may consider recoupment from the grantee of the other case in which the live-in partner and minor child were members and benefits were issued.

### **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 January 15, 2014 FAP application;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from February 1, 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: April 24, 2014

Date Mailed: April 24, 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

JAM/cl

CC:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
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