

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

IN THE MATTER OF:

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

Reg. No.: 15-007438
Issue No.: 3004
Case No.: ██████████
Hearing Date: June 18, 2015
County: WAYNE-DISTRICT 55
(HAMTRAMCK)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ ██████████, Hearing Facilitator, and ██████████ ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process the Claimant's request to add her son to her FAP group?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant filed a change report on April 21, 2015 adding her minor son to her FAP group. Exhibit 3.
2. The Claimant also provided the Department proof that her son was released to her on a tether on May 5, 2015. Exhibit 5.
3. The Department did not complete the FAP group Member Add to Claimant's FAP group until July 1, 2015. At the time of the Member Add filing, the Claimant's son was improperly included in another FAP group with his father's group. The Claimant's son had been in juvenile detention since March 2015 and thus was not

living with his father. The Department did not complete the Member Delete from the father's FAP group until sometime in June 2015, effective July 1, 2015. Exhibit 2 and 2a.

4. The Claimant requested a hearing on May 1, 2015 protesting the failure of the Department to effectuate the Member Add.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Claimant provided a change report to the Department on April 21, 2015 which advised the Department that she had added her minor son to her FAP case as he was living with her. Exhibit 3. Thereafter, the Department did not effectuate the processing of a Member Add until July 1, 2015 when it increased the Claimant's FAP benefits to a group size of two and benefits of \$357 ongoing. Exhibit 2. The Claimant's son was open in another FAP case at the time of the change report filing by the Claimant. The Department effectuated the change by Notice of Case Action dated May 29, 2015 which added the Claimant's son to the FAP group effective July 1, 2015. The caseworker making the delete of the Claimant's son from his father's group did not testify. Department policy found in BEM 550 and BEM 212 referenced below provides the Department to take the following action regarding FAP group Member Adds:

For non-income changes of the FAP, the Department is to complete the FAP eligibility determination and required case actions as follows:

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. In determining the potential FAP benefit increase, Bridges assumes the FIP/SDA supplement and new grant amount have been authorized.

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. If the Member Delete decreases benefits, **adequate notice** is given for the negative action. BEM550, (July 1, 2015) p. 5

The Department is also to initiate recoupment if necessary. BEM 212 (July 1, 2015) p. 9.

The Claimant provided the Department notice of the change by a Change Report dated April 21, 2015. This required the Department to effectuate the Delete in April 2015. BEM 550. The fact that the Claimant provided the Department on May 6, 2015 evidence of her son's release to her as he was in juvenile detention and was required to wear a tether at his release, does not change the requirement that the delete occur in the month the Department learns of the Member Add. The Claimant filed her change report on April 21, 2015. Exhibit 5 and Exhibit 6. The Claimant's caseworker attempted to add the Claimant's son to her case on May 6, 2015 and could not add him. Thereafter, nothing further occurred until the Claimant's son was added to her group as of July 1, 2015. It appears the Department did not do anything until the Claimant complained and there is no evidence that the two caseworkers involved with the two cases spoke to one another. Exhibit 1.

Based upon the evidence presented the Department clearly had notice of the Member Add request on April 21, 2015. The additional information provided to the Department as of May 6, 2015 occurred because nothing had happened with the change report so the Claimant contacted her caseworker. The Claimant's son was not added to her FAP group until July 1, 2015. Department policy provides that the delete is to occur in the month the Department learns of the change. In this case that would have been the month of April 2015. The new add occurs the month after the delete is done. In this case the Department advised that the Claimant's son was removed from the other group on May 26, 2015; however, this does not change the requirement that the delete occur in the month the Department learns of the change, and thus should have completed the Member Delete in April 2015 and completed the Member Add of Claimant's son to his mother's FAP group as of May 2015.

The Caseworker assigned to the son's father's case was required to process the delete in April 2015 when there was knowledge provided to the Department of the Member Add request. The Member Delete did not occur until sometime in June 2015. There was no explanation why the delete was not processed sooner.

Based upon these facts it is determined that the Department should have completed the delete in April 2015 and completed the Member Add to Claimant's FAP group effective May 1, 2015. BEM 550 and BEM 212.

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

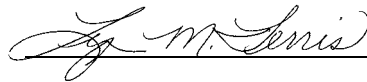
act in accordance with Department policy when it failed to complete the Member Delete in April 2015 and did not add the Claimant's son to her FAP group until July 2015.

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. The Department shall process a Member Add to the Claimant's FAP group as of May 1, 2015 and recalculate the Claimant's FAP benefits based upon a group size of 2 persons as of May 1, 2015.
2. The Department shall issue a FAP supplement to the Claimant for FAP benefits the Claimant is otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/25/2015**

Date Mailed: **6/25/2015**

LMF / 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 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:

