

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-006834
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: July 01, 2015
County: WAYNE-DISTRICT 41

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, an in person hearing was held on July 1, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. [REDACTED] appeared as the Claimant's Authorized Hearing Representative. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] Hearing Liaison and [REDACTED] also appeared.

ISSUE

Did the Department properly deny the Claimant's application for Food Assistance (FAP)?

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 an application for FAP benefits on [REDACTED]. The Claimant was no longer living in his former FAP group and had listed an address on his application different than his Mother's FAP group (which he formerly was a member of).
2. The Department denied the Claimant's FAP application on [REDACTED] because the Claimant was eligible for FAP benefits on another FAP case, (his mother's). Exhibit D
3. The Claimant requested a hearing on [REDACTED] protesting the denial of his FAP application.

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 department denied the Claimant's FAP application on [REDACTED] as it determined that the Claimant was active in another FAP case associated with his mother. No interview was conducted with the Claimant prior to the FAP application denial. The Claimant's address on the application was different than his mother's. The Department denied the application on [REDACTED]. Exhibit D

At the hearing, Claimant testified that he is 21 years old and that in March of 2015, at the time of the application he no longer was living in his mother's home which is why he submitted his own application for FAP benefits.

Food assistance group composition is established by determining who lives together, the relationships of the people who live together, whether the people living together purchase and prepare food together or separately and whether the person resides in an eligible living situation (BEM 212 July 2014, p. 1). Parents and their children under 22 years of age who live together must be in the same group, regardless of whether the children have their own spouse or child who lives with the group and regardless of whether they purchase and prepare food together (BEM 212, p. 1).

Additionally, when a member leaves a group to apply on his own or to join another group, a member delete should be completed in the month the local office learns of the application/member add and the Department shall initiate recoupment if necessary. BEM 212, p. 9.

BEM 212 provides:

MEMBER ADDS/ DELETES

When a member leaves a group to apply on his own or to join another group, a member delete should be completed in the month the local office learns of the application/member add. Initiate recoupment if necessary. If the member delete

decreases benefits, adequate notice is allowed. BEM 212,
(July 1, 2014) p. 9

There was no evidence presented at the hearing to establish that Claimant was still living with his mother for FAP purposes at the time that he submitted his own FAP application. The Department should have given Claimant an opportunity to resolve the discrepancy between the information on his application and the information on file for Claimant's mother's case, prior to denying his FAP application if the Department believed that Claimant still lived in the home with his mother. (BAM 130 October 2014, p. 8).

In this case the Department should not have denied the Claimant's application as it was on notice that a member delete should have been completed in March 2015, Claimant's application should have been processed, and Claimant's removal from his mother's group should have been completed in March 2015 by the Department. Instead of denying the application, Claimant's application should have been processed and eligibility determined. In addition, had the caseworker had any question about where the Claimant lived, the caseworker should have sought verification prior to denying the application (BAM 130). Also the mother's case and the Claimant's case were both handled by the same caseworker making the member delete easily facilitated.

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 denied Claimant's FAP application.

DECISION AND ORDER

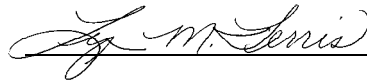
Accordingly, the Department's decision is

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. Re register and process Claimant's [REDACTED], application for FAP benefits;
2. Issue FAP supplements to Claimant from [REDACTED], ongoing, in accordance with Department policy;

3. Notify Claimant in writing of its decision.



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

Date Signed: **7/10/2015**

Date Mailed: **7/10/2015**

LMF / 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:

