

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

IN THE MATTER OF:



MAHS Reg. No.: 15-018229
Issue No.: 1001
Agency Case No.: [REDACTED]
Hearing Date: December 9, 2015
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner'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 December 9, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly processed an alleged change in household members concerning Petitioner's Family Independence Program (FIP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing FIP benefit recipient.
2. As of April 2015, Petitioner lived with her granddaughter and her granddaughter's biological father (who was also Petitioner's son).
3. On August 31, 2015, Petitioner submitted to MDHHS a Redetermination that her granddaughter's father moved out of her household.
4. MDHHS did not include Petitioner's granddaughter in Petitioner's FIP eligibility since April 2015.

5. On September 21, 2015, Petitioner requested a hearing to dispute the failure by MDHHS to factor her granddaughter in her FIP eligibility since April 2015.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute her FIP eligibility since April 2015. Petitioner's only dispute was MDHHS failed to factor her grandchild as a group member. It was not disputed that Petitioner lived with her grandchild as of April 2015. It was not disputed that Petitioner's grandchild's father was also in Petitioner's household.

Petitioner's testimony conceded she possesses no legal authority to be the caretaker of her grandchild. Petitioner's testimony alleged that she is and has always been the primary caretaker for her grandchild. Petitioner's testimony equated to a contention that she was the primary caretaker, even when her grandchild's legal father was in her house.

Group composition is the determination of which individuals living together are included in the FIP eligibility determination group/program group and the FIP certified group. BEM 210 (July 2015), p. 1. The [FIP benefit] group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker. *Id.*, p. 1. A caretaker is a legal parent or stepparent living in the home, or when no legal parent or stepparent lives in the home, another adult who acts as a parent to a dependent child by providing physical care and supervision. *Id.* A legal parent or stepparent living with a dependent child is always the child's caretaker, unless the parent is a minor. *Id.*, p. 6.

It is of no matter that Petitioner considers herself to be the primary caretaker for her grandchild. While Petitioner's grandchild's father was in her home, he was considered to be the primary caretaker. Petitioner is not entitled to receive FIP benefits for a child to which she was not a caretaker. It is found that MDHHS properly did not issue FIP benefits to Petitioner while her grandchild's father lived in the same household.

Petitioner testimony alleged she reported to MDHHS on August 31, 2015, that her grandchild's father moved out of her house. MDHHS presented a Redetermination (Exhibits 1-3). The Redetermination listed five pre-printed names as household members in Petitioner's residence. Two were Petitioner and a [REDACTED] year-old daughter. Three other names were crossed-out by Petitioner. Petitioner's granddaughter and granddaughter's father were among the names crossed-out by Petitioner. MDHHS

interpreted the three crossed out names as a reporting that the three persons left Petitioner's household. Petitioner provided an alternative interpretation.

Petitioner conceded two of the persons (including Petitioner's grandchild's father) left her household but contended that her granddaughter stayed in the household. Petitioner noted she only crossed-out the name of her granddaughter because her granddaughter already received Medicaid. Petitioner testimony noted that she listed dates for when her sons moved out but wrote "NA" for the date that her granddaughter moved. Petitioner also noted that she wrote that her granddaughter stays with her 30 days within a month and buys food with her while writing nothing in the space for the two persons who left her residence.

MDHHS had some reason to conclude Petitioner's Redetermination reported her granddaughter left the house. A full reading of the Redetermination shows more support for finding that Petitioner did not report that her granddaughter left her residence. It is found that Petitioner reported to MDHHS on August 31, 2015, that her granddaughter's father left her household, but not that her granddaughter left the household.

Petitioner testimony conceded the Redetermination was the first time she reported the household member change to MDHHS. Following the hearing, Petitioner attempted to change her hearing statement by sending a letter claiming that she previously reported the change to MDHHS on July 17, 2015. Petitioner's written statement was not admitted as an exhibit and was an inappropriate attempt to amend her testimony. Petitioner's written statement sent following the hearing will be wholly disregarded.

[For FIP benefit changes reported timely (within 10 days)], member additions resulting in a grant increase will affect the month after the month the change occurred. BEM 515 (July 2013), p. 3. [For changes not reported timely,] for member additions resulting in a grant increase, reflect the change in the month after the month the change is reported. *Id.*, p. 4.

Petitioner's Redetermination stated that the reported date of change was July 10, 2015 (see Exhibit 2). Thus, Petitioner's report date of August 31, 2015 was an untimely reporting. Accordingly, Petitioner is entitled to have FIP eligibility affected beginning September 2015, the first month after the reported date of change.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly excluded Petitioner's granddaughter as a FIP group member for the period from April 2015 through August 2015. The actions taken by MDHHS are **PARTIALLY AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to process Petitioner's reported change in household members. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) determine Petitioner's FIP eligibility, effective September 2015, subject to the finding that Petitioner reported to MDHHS on August 31, 2015, that her grandchild's father moved out in July 2015; and
- (2) issue a supplement for any benefits improperly not issued.

The actions taken by MDHHS are **PARTIALLY REVERSED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **12/14/2015**

Date Mailed: **12/14/2015**

CG/tm

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:

