

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

IN THE MATTER OF:



MAHS Reg. No.: 15-019422
Issue No.: 3001, 6000
Agency Case No.: [REDACTED]
Hearing Date: December 17, 2015
County: CASS

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 December 17, 2015, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Health and Human Services (Department) included Family Independence Specialist [REDACTED] and Family Independence Manager [REDACTED]. During this hearing it was determined that Claimant was not sent a Notice of Case Action (DHHS-1605) regarding his Child Development and Care (CDC) application until after he submitted the hearing request under this register number. Claimant was informed that he can still request a hearing about that eligibility determination but there is no jurisdiction to address it during this hearing.

ISSUE

Did the Department properly deny Claimant's September 8, 2015, application for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. On September 8, 2015, Claimant submitted an application for Food Assistance Program (FAP) benefits. Claimant listed his two minor children on the application and requested benefits for them.
2. On September 18, 2015, Claimant was sent a Verification Checklist (DHHS-3503). The required verifications were due back on September 28, 2015.

3. On October 7, 2015, the Department had not received the required verifications to determine Food Assistance Program (FAP) eligibility. Claimant was sent a Notice of Case Action (DHHS-1605) which stated his Food Assistance Program (FAP) application was denied.
4. On October 13, 2015, Claimant submitted a hearing request.

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.

During this hearing Claimant did not dispute his failure to provide all required verifications prior to denial of his Food Assistance Program (FAP) application. Department policy provides that if required verifications are not provided, it is a correct action to send a negative action notice.

Claimant also disputes the fact that his children were not considered as part of his Food Assistance Program (FAP) benefit group. Claimant's Food Assistance Program (FAP) application was not denied because of Food Assistance Program (FAP) benefit group composition issues. However, that issue was covered during this hearing.

Claimant's two children were already group members of their mother's Food Assistance Program (FAP) benefit group. Claimant and the mother of his two children have joint custody and the children spend 15 days per month with each parent. Bridges Eligibility Manual (BEM) 212 Food Assistance Program Group Composition, at page 3 provides:

DETERMINING PRIMARY CARETAKER

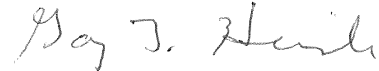
When a child spends time with multiple caretakers who do not live together such as joint physical custody, parent/grandparent, etc., determine a primary caretaker. Only one person can be the primary caretaker and the other caretaker(s) is considered the absent caretaker(s). The child is **always** in the FAP group of the primary caretaker. If the child's parent(s) is living in the home, he/she must be included in the FAP group.

In accordance with Department policy, the children would not be moved into Claimant's Food Assistance Program (FAP) benefit group unless new information was provided to show they spent the majority of their time with Claimant.

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 acted in accordance with Department policy when it denied Claimant's September 8, 2015, application for Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **12/21/2015**

GH/nr

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:

