

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-000815
Issue No.: 3002, 3008
Case No.: [REDACTED]
Hearing Date: February 26, 2015
County: Washtenaw (District 20)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 February 26, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant, and [REDACTED], husband. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED] Family Independence Manager.

ISSUE

Did the Department properly determine Claimant's Food Assistance Program (FAP) group composition and resulting ongoing FAP monthly allotment?

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 was receiving FAP benefits based on a group size of 3.
2. On December 16, 2014, Claimant's son [REDACTED] applied for FAP and Medicaid, reporting that he lived with Claimant.
3. Because [REDACTED] is under age [REDACTED] (date of birth [REDACTED]) and lives with his parents, the FAP portion of his application was processed as a case change.
4. On December 17, 2014, a Verification Checklist was issued stating what verifications were needed by the December 29, 2014 due date.

5. On January 2, 2015, the Department received the verifications, but due to a processing delay, the Department worker did not receive them until January 7, 2015.
6. On January 3, 2015, a Notice of Case Action was issued stating the FAP case would close effective February 1, 2015, based on a failure to provide verifications.
7. On January 7, 2015, the Department processed the verifications and reinstated the FAP benefits.
8. The Department added [REDACTED] to the FAP group, as well as another son who is no longer an ineligible student because he is working.
9. The income from the additional FAP group members was included in the FAP budget.
10. On January 7, 2015, a Notice of Case Action was issued stating FAP monthly allotment would be reduced to \$ [REDACTED] effective February 1, 2015, for a group size of 5.
11. On January 14, 2015, Claimant submitted a request for hearing, in part stating [REDACTED] does not physically reside with his parents.
12. On January 15, 2015, the Eligibility Specialist called [REDACTED] who confirmed that he lives with Claimant at her home.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212, 7-1-2014, p. 1.

A person who is in student status and does not meet the criteria in BEM 245 is a non-group member. BEM 212 p. 10.

A person enrolled in a post-secondary education program may be in student status, as defined in this item. A person in student status must meet certain criteria in order to be eligible for assistance. BEM 245, 7-1-2014, p. 1.

A person is in student status if they are age 18 through 49 and enrolled half time or more in a: vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate; or regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245 p. 3. In order for a person in student status to be eligible, they must meet one of the several criteria, including working at least 20 hours per week. BEM 245 p. 4.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 550 (2-1-2014), p.1. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554 (10-1-2014) p. 12. The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses. BEM 554, p. 14. Actual utility expenses will be used for the following expenses only: utility installation charges (not deposits), water well installation and maintenance, and septic installation and maintenance. BEM 554 p. 23. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. BEM 554 p. 15. A FAP group which has a heating expense or contributes to the heating expense separate from rent, mortgage or condominium/maintenance payments must use the h/u standard. BEM 554 p. 16.

In this case, the Department has already rescinded the proposed closure based on the alleged failure to comply with verification requirements. The remaining contested issue is whether the Department properly determined the FAP group composition and resulting FAP monthly allotment.

On [REDACTED], Claimant's son [REDACTED] applied for FAP and Medicaid, reporting that he lived with Claimant. Because [REDACTED] is under age [REDACTED] (date of birth [REDACTED]) and lives with his parents, he is considered a mandatory FAP group member. When processing this case change, the Department also discovered that another son living in the home who has been attending college was now working. Accordingly, that son was no longer considered an ineligible student and was added to the FAP group. The Department then considered the income from all FAP group members in determining the on-going FAP monthly allotment.

Claimant and her husband contest the addition of [REDACTED] to the FAP group. Claimant and her husband testified that [REDACTED] uses their address as a mailing address but he does not actually live with them. Their testimony indicated [REDACTED] lives with a girlfriend. However, Claimant and her husband did not know the address where [REDACTED] is staying nor did they have any documentation to support their testimony that [REDACTED] is not living in their home. Claimant's husband noted several other inaccuracies with the information R.C. reported

on the application form. Claimant's husband also questioned whether water and sewer expenses were included in the budget.

After receiving Claimant's hearing request disputing that [REDACTED] lives in the home, the Department contacted [REDACTED]. The Eligibility Specialist testified that on January 15, 2015, [REDACTED] confirmed that he lives with Claimant. Additionally, the Eligibility Specialist testified that the inaccurate information reported on [REDACTED] application form did not affect the FAP budget. For example, income was budgeted based on the income verifications, not what was listed on the application form.

Claimant has not presented sufficient evidence to establish that [REDACTED] does not live with Claimant. Thus far, there has not even been a different address reported for [REDACTED] let alone any documentation verifying that he lives somewhere else. The Department properly included [REDACTED] in the FAP group based on the currently available information. The Department also properly included the income from all FAP group members in determining the ongoing FAP allotment. Additionally, the full h/u standard was included in the FAP budget. The full h/u standard covers all of the regular monthly heat and utility costs, including water and sewer.

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 determined Claimant's FAP group composition and resulting ongoing FAP monthly allotment.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/2/2015**

Date Mailed: **3/2/2015**

CL/jaf

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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:

