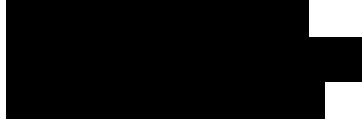


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 15-004775
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: May 7, 2015
County: Washtenaw (District 20)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 May 7, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist Jason Granberry and Family Independence Manager Yvette Bishop.

ISSUE

Did the Department properly reduce Claimant's 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. Claimant was an on-going FAP recipient.
2. On December 23, 2014, the Department became aware that two of Claimant's children were removed from her home by Child Protective Services (CPS).
3. On January 13, 2015, the Department mailed to Claimant a Notice of Case Action (NCA) informing her that her FAP would be reduced beginning February 1, 2015, to reflect the reduction in her group size.
4. The Department received Claimant's hearing request on February 5, 2015.

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, Claimant's FAP had been based upon a group size of four. As of December 23, 2014, the Department became aware that two of her children had been removed from her care by CPS and a petition had been filed in the Washtenaw Family Court regarding their care. Because her group size was smaller, she was eligible to receive a lower amount of FAP benefits monthly.

Claimant testified that her daughter was returned to her care on December 29, 2014. When asked repeatedly for documentation from the Court that the daughter had been returned, she testified that she did not have any documentation with her other than an Amended Petition showing only her son was the subject of the Petition as of April 6, 2015. She played a portion of a recording from a hearing, which she said was evidence that the Magistrate had returned the daughter. Other than comments made by Claimant herself, very little could be made out.

It will be noted that Claimant became very loud and aggressive during the hearing. She clearly was not pleased with how the hearing was progressing. While that type of conduct is not conducive to a smooth hearing, it is not coloring the undersigned's review of the evidence. The Department's witness's demeanor and comments suggest that he was not taking a very active role in trying to verify past claims Claimant had made about the daughter being returned to the home. He said he made an effort to contact the CPS worker but did not follow up when he received no response from her. Neither witness was particularly helpful in resolving factual questions.

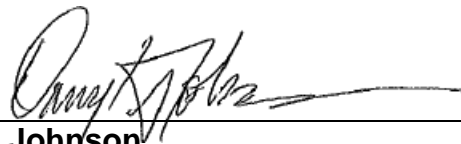
The available facts show that two children were removed from Claimant's home in December 2014. That reduced her group size from four to two. One of the children was returned home at some point. The earliest substantive evidence that was provided shows she was returned at least in April 2015. Claimant's self-serving testimony that the child was returned in December 2014 is insufficient to support a finding to that effect.

Claimant's hearing request was submitted February 5, 2015. While the child could well have been returned after that date, that does not change the fact that, at the time the Department took action, it based its decision on the available information.

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 reduced Claimant's FAP.

DECISION AND ORDER

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



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/11/2015**

Date Mailed: **5/11/2015**

DJ/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 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:

[REDACTED]
Washtenaw (District 20)
BSC4
[REDACTED]
D. Johnson
MAHS