

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

IN THE MATTER OF:

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████████████████████
██

Reg. No.: 15-009133
Issue No.: 3001
Case No.: ██████████
Hearing Date: July 06, 2015
County: Wayne-District 35 (Redford)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 July 6, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her grandmother, ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly deny Claimant's 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 or around April 17, 2015, Claimant submitted an application for FAP benefits.
2. On May 15, 2015, the Department sent Claimant a Notice of Case Action informing her that the application was denied on the basis that she was eligible for FAP benefits on another case. (Exhibit A)
3. On May 26, 2015, Claimant requested a hearing disputing the Department's actions.

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.

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.

In this case, Claimant submitted an application for FAP benefits on her own behalf and indicated a group size of one. The Department testified that Claimant's case worker attempted to contact her for an application interview on April 27, 2015, but was not able to reach her. (Exhibit B). The Department stated that on May 15, 2015, it sent Claimant a Notice of Case Action informing her that her application was denied on the basis that she was considered to be an eligible child on another FAP case. (Exhibit A). The Department presented a Notice of Case Action for Claimant's mother's FAP case which identifies Claimant as a group member. (Exhibit C).

At the hearing, Claimant testified that she is 18 years old and that in April 2015, she moved out of her mother's home. Claimant stated that she was informed by her mother that she was no longer on her mother's case, which is why she submitted her own application for FAP benefits. Claimant testified that she did not receive any appointment notices from the Department informing her that she had an interview on April 27, 2015.

There was no evidence presented at the hearing to establish that Claimant was still living with her mother for FAP purposes at the time that she submitted her own FAP

application. The Department should have given Claimant an opportunity to resolve the discrepancy between the information on her application and the information on file for Claimant's mother's case, prior to denying her FAP application if the Department believed that Claimant still lived in the home with her mother. BAM 130 (October 2014), p. 8.

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. Register and process Claimant's April 17, 2015, application for FAP benefits;
2. Issue FAP supplements to Claimant from April 17, 2015, ongoing, in accordance with Department policy; and
3. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/9/2015**

Date Mailed: **7/9/2015**

ZB / tlf

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]
[REDACTED]
[REDACTED]
[REDACTED]
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