

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

IN THE MATTER OF:



Reg. No.: 15-010009
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: August 13, 2015
County: Muskegon

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on August 13, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and his authorized hearing representative [REDACTED]. Participants on behalf of the Department included [REDACTED], Family Independence Manager.

ISSUE

Did the Department of Health and Human Services (Department) properly close the Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) 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. The Claimant was an ongoing Food Assistance Program (FAP) and Medical Assistance (MA) recipient.
2. On June 9, 2015, the Claimant reported a change of his physical address and mailing address.
3. On June 9, 2015, the Department notified the Claimant that it had closed his Food Assistance Program (FAP) and Medical Assistance (MA) benefits so that he could be placed in another benefit group.
4. On June 17, 2015, the Department received the Claimant's request for a hearing protesting the closure of his Food Assistance Program (FAP) and Medical Assistance (MA) benefits groups.

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.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. 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. Department of Human Services Bridges Eligibility Manual (BEM) 212 (July 1, 2014), p 1.

Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share only an access area such as an entrance or hallway or non-living area such as a laundry room are not considered living together. BEM 212, p3.

The Claimant was an ongoing FAP and MA recipient when he reported to the Department that his physical and mailing addresses had changed. The Claimant reported that he had moved to [REDACTED] [REDACTED] [REDACTED] [REDACTED] effective May 30, 2015, and supplied another address as his mailing address. The Department conducted a routine review to determine how this change affected the Claimant's eligibility for continuing benefits. The Department determined that the Claimant's son [REDACTED] has been reported to be living at the same address as the Claimant's physical address making them mandatory FAP group members. The mother of the Claimant's son [REDACTED] also resides at this address and they are mandatory group members. The mother of BC also resides in the home and since BC is under 22-years-old, they are mandatory group members. The Department closed the Claimant's FAP and MA cases and placed him in in the active benefit group located at his new physical address. The group remains active as a FAP group of four and the Claimant remains eligible for MA benefits.

The Claimant argues that the four people that the Department has combined into a single FAP benefit group are not living together. The Claimant testified that their physical address is a duplex home and that he meets the definition of a roomer. The

Claimant provided evidence showing that he is an individual to whom a household furnishes lodging for compensation but not meals.

The Claimant argued that a federal regulation, 7 CFR 273 (b)(5), permits him to maintain his separate FAP benefit group at his new physical address because he does not live there but should be considered a roomer.

Individuals to whom a household furnishes lodging for compensation, but not meals, may participate as separate households. Persons described in paragraph (b)(1) of this section must not be considered roomers. 7 CFR 273(b)(5).

However, when this regulation is applied towards the Claimant's circumstances, he may not be considered a roomer. This regulation specifically states that persons described in paragraph (b)(1) must not be considered roomers.

The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

(i) Spouses;

(ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); and

(iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult. 7 CFR 273(B)(1).

Therefore, it is not relevant whether the Claimant purchases and prepares food with the other three members of his newly formed benefit group or that he is furnished lodging for compensation because this federal regulation requires him to be included in the household based on their relationships.

The FAP program is a federally funded and state administered program and the Department's policies that regulate eligibility for these benefits are consistent with the regulations of 7 CFR 273. If the Department finds that the Claimant lives with the other members of his new benefit group, it is required to include them together in the same benefit group based on their relationship regardless of whether they purchase and prepare food together, or whether compensation is exchanged for lodging.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Claimant is living with the other members of his newly formed FAP benefit group. The Claimant failed to establish that he is living in a separate dwelling as a roomer or that he does not share any common living quarters with the other group members. It is common for a residence divided as a duplex to have separate addresses and utilities for each section which is not the case here. The Claimant did not report on June 9, 2015, that he was living alone in a separate residence but reported that he was living with his newborn son. Therefore, the Department's application of BEM 212 was accurate based on these circumstances.

A person cannot be a member of more than one FAP Certified Group (CG) in any month. Department of Health and Human Services Bridges Eligibility Manual (BEM) 212 (July 1, 2013), p 3.

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 closed the Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) benefit groups and placed in an existing benefit group as directed by BEM 212.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
Department of Human Services Bridges Administrative Manual (BAM) 600
(April 1, 2015), pp 3-4.

Furthermore, the Claimant failed to establish any loss or reduction of MA benefits when the Department closed his MA benefit group and placed in a different MA group. The Claimant remains active for MA benefits under the Healthy Michigan Plan (HMP) and does not pay a deductible. The income received by his new benefit group either makes him eligible for benefits or not eligible. Benefit groups under HMP are not based on their tax status and filing a tax return is not a requirement to receive these benefits. The

Claimant remains eligible for HMP benefits and his change of groups is not an issue that falls under the jurisdiction of the Michigan Administrative Hearing System (MAHS).

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/14/2015**

Date Mailed: **8/14/2015**

KS/las

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:

