

**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.: 15-013738  
Issue No.: 3001  
Case No.: ██████████  
Hearing Date: September 23, 2015  
County: Wayne (41)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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, an in-person hearing was held on September 23, 2015, from Detroit, Michigan. Participants included the above-named Claimant. ██████████ ██████ testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████ ██████████ hearing liaison.

**ISSUE**

The issue is whether MDHHS properly did not process Claimant's Food Assistance program (FAP) eligibility for an application month in which Claimant was eligible for FAP benefits as a group member for a separate case.

**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 ongoing FAP group member under the case of his mother.
2. On March 17, 2015, Claimant applied for FAP benefits as a separate FAP group from his mother.
3. On an unspecified date, MDHHS denied Claimant's application.
4. Following an administrative hearing, MDHHS was ordered to re-register Claimant's application and issue supplements in accordance with policy.

5. On an unspecified date, MDHHS issued FAP supplements to Claimant for April 2015 and May 2015.
6. On an unspecified date, MDHHS determined Claimant was not entitled to a supplement of FAP benefits for March 2015, because FAP benefits were issued to Claimant's mother in March 2015 (with Claimant as a FAP group member).
7. On July 27, 2015, Claimant requested a hearing to dispute the failure of MDHHS to issue a FAP supplement for March 2015.

### **CONCLUSIONS OF LAW**

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a MDHHS alleged failure to comply with an administrative order dated July 20, 2015 (see Exhibits A1-A5). Claimant's AHR conceded that MDHHS issued supplements for Claimant's FAP eligibility for April 2015 and May 2015. Claimant's AHR only disputed Claimant's March 2015 FAP eligibility.

MDHHS testimony indicated that Claimant's FAP eligibility for March 2015 was considered and denied. The basis for denial was that Claimant was a member of his mother's FAP benefit group in March 2015, and FAP benefits were already issued.

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. BEM 212 (July 2014), p. 9. Initiate recoupment if necessary. *Id.*

Claimant's AHR contended that the above-cited policy mandates that MDHHS issue FAP to Claimant for March 2015. The contention is not persuasive.

The above-cited policy notes that MDHHS should have removed Claimant from his mother's group in March 2015. This statement does not affect Claimant's FAP eligibility; it is merely a timeframe for MDHHS to follow in processing a member change. Removing Claimant from his mother's group in March 2015 is not an action that automatically makes Claimant eligible for FAP benefits in March 2015. If MDHHS does not process the group member change as they should, MDHHS policy allows for recoupment.

MDHHS has a more applicable policy. A member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. *Id.*

Claimant left another FAP benefit group to apply for his own FAP benefits. The report date of the change is March 17, 2015 (the date Claimant's application was submitted to MDHHS). The earliest Claimant could expect FAP benefits would be April 2015, the month after the change in group members was reported.

Claimant's AHR cited additional policy to support his claim that his son was eligible to receive his own FAP benefits in March 2015. If the group meets FAP categorical eligibility within 30 days of application, FAP eligibility is effective the date of application. BEM 213 (July 2014), p. 3. Household applies for FIP and FAP or SDA and FAP on June 23. FAP is denied due to excess assets. FIP or SDA is approved on July 8. FAP eligibility begins on June 23.

Claimant's AHR contended that the above-cited policy guarantees Claimant's FAP eligibility from his application date, not the first of the following month. Claimant's AHR contention is based only on a selective consideration of policy.

Traditional categorically eligible groups automatically meet the asset and income limits for the Food Assistance Program (FAP). BEM 213 (July 2014), p. 1. Categorical eligibility applies to groups, not individuals. *Id.*

Categorical eligibility does not guarantee all applicants FAP benefits from their application date. It makes clients automatically income-eligible and asset eligible for FAP benefits from the application date. Clients must still meet all of the other program requirements, including group composition requirements. For March 2015, Claimant does not meet FAP group composition requirements to receive FAP benefits for himself, in addition to the FAP benefits issued to his mother.

Claimant's AHR lastly contended that the issue of Claimant's FAP eligibility for March 2015 was already addressed by a previous hearing decision. Claimant's AHR contended that *res judicata* bars MDHHS from disputing the same issue.

The previous hearing decision considered whether MDHHS properly denied Claimant's application dated March 17, 2015. The ALJ found that MDHHS improperly denied Claimant's application. The administrative law judge ordered MDHHS to perform the following actions (see Exhibits A1-A5):

- (1) Re-register and process Claimant's March 17, 2015, application for FAP benefits;
- (2) Issue FAP supplements to Claimant from March 17, 2015, ongoing, in accordance with Department policy; and
- (3) Notify Claimant in writing of its decision.

Though MDHHS was ordered to issue supplements to Claimant, the issuances were to be in accordance with MDHHS policy. In accordance with MDHHS policy, Claimant is not entitled to FAP benefits for March 2015, as Claimant received benefits as part of his mother's group.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Claimant to be ineligible for a supplement of FAP benefits for March 2015. The actions taken by MDHHS are **AFFIRMED**.



**Christian Gardocki**

Administrative Law Judge  
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **9/28/2015**

Date Mailed: **9/29/2015**

CG/tm

**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]  
[REDACTED]  
[REDACTED]  
[REDACTED]