

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

IN THE MATTER OF:



MAHS Reg. No.: 15-015870
Issue No.: FAP
Agency Case No.: [REDACTED]
Hearing Date: October 15, 2015
County: Livingston County DHHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

Following Petitioner'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, an in-person hearing¹ was held on [REDACTED], from Howell, Michigan. The Petitioner was represented by [REDACTED], mother. The Department was represented by [REDACTED], Eligibility Specialist, and [REDACTED], General Services Program Manager.

ISSUE

Did the Department properly determine Claimant's eligibility for the July 6, 2015, 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. Claimant was a member of her mother's FAP group through [REDACTED].
2. Claimant turned age 22 on [REDACTED]. (Department Exhibit B, pg. 5)
3. On [REDACTED], Claimant's mother submitted a FAP application for Claimant. (Department Exhibit B, pp. 3-24)
4. In [REDACTED] Claimant's daughter received \$ [REDACTED] in Supplemental Security Income (SSI) benefits. (Department Exhibit B, p. 25-27)
5. On [REDACTED], a Notice of Case Action was issued to Claimant stating she was approved for FAP with an allotment of \$ [REDACTED] for the period of [REDACTED] through [REDACTED]. (Department Exhibit B, pp. 29-32)

¹ Claimant's FAP appeal was held in conjunction with 15-015868, the FAP appeal for Claimant's mother that was scheduled for the same date and time. The parties agreed to incorporate the hearing records for both cases by reference because the case actions were related.

6. On [REDACTED], Claimant's mother filed a hearing request contesting the Department's determination. (Department Exhibit B, p. 2)

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.

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. Note: For ongoing and intake applications where the child(ren) are not yet 22, they are potentially eligible for their own case, the month after turning 22. BEM 212, (July 1, 2014), p. 1.

Claimant's mother asserted that Claimant should have been removed from her FAP group for June 2015 because Claimant turned 22 years old on June 16, 2015. (See also (Department Exhibit B, p. 5) However, the above cited BEM 212 policy is clear that children become potentially eligible for their own FAP case the month after turning 22. Accordingly, Claimant was not potentially eligible for her own FAP case until July 2015.

The Michigan Combined Application Project (MiCAP) is a Food Assistance demonstration project approved by the Food and Nutrition Service (FNS). MiCAP is a series of waivers that allows DHS to issue Food Assistance Program (FAP) benefits to Supplemental Security Income (SSI) individuals who qualify for this program. The program is administered by the centrally located MiCAP unit. Final eligibility determination and redeterminations are the responsibility of the MiCAP unit. BEM 618, (July 1, 2014) p.1.

Claimant's mother testified that she wanted the Department to approve MiCAP rather than regular FAP benefits for Claimant. Claimant's mother testified she submitted the July 6, 2015, FAP application for Claimant because that was the form the Department told her to complete. Claimant's mother explained that MiCAP was discussed when she turned in the FAP application at the local Department office and she thought that the Department was going to consider Claimant for the MiCAP program.

The General Services Program Manager noted "why not MiCAP" on the top of the July 6, 2015, FAP application. Department Exhibit B, p. 3. The General Services Program Manager explained that the local office does not handle MiCAP. The General Services

Program Manager also recalled MiCAP being discussed when the July 6, 2015 FAP application was submitted. The General Services Program Manager explained that the local Department office does not address the MiCAP program, but she did recall Claimant's mother stating that they had not yet been contacted by the MiCAP unit. The General Services Program Manager had understood that Claimant's mother did not want Claimant to go without food benefits while waiting for the MiCAP unit to contact them about that program and wanted a regular FAP case opened for Claimant in the meantime.

The above cited BEM 618 policy specifies that the MiCAP program is administered by the centrally located MiCAP unit. Final eligibility determination and redeterminations are the responsibility of the MiCAP unit. Accordingly, the local Department office could not have processed the [REDACTED], FAP application for MiCAP benefits. Accordingly, the [REDACTED], application was properly processed for regular FAP benefits. The approval period of [REDACTED] through [REDACTED], is consistent with the General Services Program Manager's testimony that she understood Claimant's mother wanted Claimant to have regular FAP benefits while waiting for the MiCAP unit to consider Claimant's eligibility for that program.

It is noted that the testimony of the parties indicated that since the hearing request was filed, Claimant's regular FAP case was closed so that the MiCAP unit could consider Claimant's eligibility and MiCAP benefits have been approved for Claimant.

Lastly, the income and expense figures utilized in Claimant's July 2015 FAP budget were reviewed with Claimant's mother and no errors were found.

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 eligibility for the Claimant's [REDACTED], application for FAP benefits.

DECISION AND ORDER

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



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

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

[REDACTED]

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:

