

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

**IN THE MATTER OF:**

[REDACTED]

MAHS Reg. No.: 15-020758  
Issue No.: 3001; 6000  
Agency Case No.: [REDACTED]  
Hearing Date: December 21, 2015  
County: MACOMB-DISTRICT 12  
(MT CLEMENS)

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**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, a telephone hearing was commenced on December 21, 2015, from Detroit, Michigan. Appearing on Petitioner's behalf were Petitioner and [REDACTED], Petitioner's mother and authorized hearing representative (AHR). The Department was represented by [REDACTED], Hearing Facilitator. [REDACTED], lead worker with the Office of Child Support (OCS), participated via three-way telephone conference as a witness for the Department.

**ISSUE**

Did the Department properly process Petitioner's Food Assistance Program (FAP) case to add her brother and mother as group members?

Did the Department properly close Petitioner's Child Development and Care (CDC) 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. Petitioner was an ongoing recipient of FAP and CDC benefits.
2. On [REDACTED], Petitioner notified the Department that her mother and brother had moved in with her and asked to have them added to her FAP case.

3. On [REDACTED], the Department was notified by OCS that Petitioner was in noncompliance with her child support reporting obligations.
4. On [REDACTED], Petitioner complied with her child support reporting obligations.
5. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her CDC case would close effective [REDACTED] because she had failed to cooperate with her child support reporting obligations.
6. On [REDACTED], Petitioner filed a request for hearing disputing the Department's actions concerning her CDC and FAP cases.

### **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).

Petitioner requested a hearing to dispute the Department's actions taken with respect to her CDC and FAP cases, specifically the closure of her CDC case and the Department's failure to add Petitioner's mother and brother to her FAP case.

#### **CDC Case**

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The Department initially advised Petitioner in an [REDACTED] Notice of Case Action that her CDC case would close effective [REDACTED] because she failed to cooperate with child support reporting requirements (Exhibit A). The Department presented a [REDACTED] letter by OCS finding Petitioner compliant with her child support reporting obligations (Exhibit I), but OCS testified at the hearing that Petitioner complied with her child support reporting obligations on [REDACTED], the same day it had identified her as noncooperative. The Department testified that, upon being made aware of the compliance, it reinstated Petitioner's CDC case effective [REDACTED] ongoing and sent her a [REDACTED] Notice of Case Action showing its actions (Exhibit H). As a result, Petitioner received ongoing, uninterrupted

CDC benefits. Petitioner acknowledged receiving the Notice of Case Action and having her CDC case reinstated.

Because the Department established that it had resolved Petitioner's CDC issue prior to hearing, Petitioner's hearing request concerning CDC is DISMISSED.

### **FAP Case**

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.

At the hearing, the Department testified that Petitioner's FAP case had never been affected by the child support noncooperation, and Petitioner acknowledged that she had never received notice of a FAP reduction due to child support noncooperation. The Department presented evidence showing that, following receipt of Petitioner's hearing request, it began processing the addition of Petitioner's mother and brother to her FAP group effective [REDACTED] (Exhibit C). Petitioner agreed that she reported her FAP group additions on [REDACTED]. The Department established that, as of the hearing date, the mother and brother had been added to Petitioner's FAP case (Exhibit F).

The Department testified that, in processing the member add, it requested verification of Petitioner's mother end of employment and last paycheck (Exhibit D). The Department testified that, although Petitioner did not respond to the VCL, the Department worker had collaterally contacted Petitioner's mother's employer and obtained the requested verifications. Based on the information received, the Department attempted to process the member add.

The Department acknowledged at the hearing that, based on the [REDACTED] change report date, the member add should have affected November 2015 benefits. See BEM 550 (October 2015), p. 4 (providing that a member add that increases benefits is effective the month after it is reported). However, its system was not adding Petitioner's mother and brother to her case, and increasing Petitioner's FAP benefits, until January 2016. The Department testified that it was required to request a help-desk ticket to process Petitioner's case and issue FAP supplements for benefits Petitioner should have received for the expanded group for November 2015 and December 2015.

Although the undersigned indicated during the hearing that the Department sufficiently established that it processed Petitioner's FAP member add request by showing that it added Petitioner's brother and mother to her FAP group, a further consideration of the facts in this case show that the Department erred when it failed to issue FAP benefits to Petitioner based on the increased FAP group size effective November 2015.

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 failed to properly process Petitioner's member add request to affect November 2015 FAP benefits.

**DECISION AND ORDER**

Because the Department resolved Petitioner's CDC issue prior to hearing, the hearing request concerning CDC is **DISMISSED**.

The Department's FAP 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. Recalculate Petitioner's FAP budget for [REDACTED] ongoing to include her mother and brother as FAP group members;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED] ongoing; and
3. Notify Petitioner in writing of its FAP decision.



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**Alice C. Elkin**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **12/23/2015**

Date Mailed: **12/23/2015**

ACE / hw

**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:

