

**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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MAHS Reg. No.: 15-020596
Issue No.: 1004;3004
Agency Case No.: ██████████
Hearing Date: January 07, 2016
County: Wayne-District 57

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 held on January 7, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████ ██████████, Family Independence Manager and ██████████ ██████████, Family Independence Specialist.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) and Family Independence Program (FIP) 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. Petitioner was an ongoing recipient of FIP and FAP benefits.
2. On August 28, 2015, Petitioner submitted a change report to inform the Department of her change in address and to have her daughter and granddaughter added to her FIP and FAP cases as they had moved into her home. (Exhibit A)
3. The Department failed to process Petitioner's reported changes.
4. On October 26, 2015, Petitioner 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

Additionally, the Department determines FAP group composition by applying the factors found in BEM 212. BEM 212 (July 2014), p. 1. For FAP purposes, 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. When a member leaves a group to apply on his own or to join another group, the Department is to do a member delete in the month the Department learns of the application/member add and initiate recoupment of FAP benefits on the other case, if necessary. BEM 212, p. 9.

The Department determines FIP group composition by applying the factors found in BEM 210. BEM 210 (July 2015). For FIP purposes, member addition changes that are reported timely (within 10 days) and which result in a grant increase will affect the month after the month the change occurred. BEM 515 (July 2013), pp.3-4. For member additions not reported timely and which result in a grant increase, the change will be reflected in the month after the month the change is reported. BEM 515, p.4.

In this case, Petitioner was an ongoing recipient of FIP and FAP benefits. Petitioner requested a hearing disputing the Department's failure to process a change report that she submitted on August 28, 2015, on which reported a change in address and that her daughter and granddaughter were now living in her home. (Exhibit A). The Department acknowledged that it received Petitioner's change report and that as of the hearing date, still had not processed the reported changes or had Petitioner's daughter and granddaughter added on to her cases. The Department stated that because Petitioner's daughter was [REDACTED] years old, she and her child could be added to Petitioner's FAP case but not Petitioner's FIP case. The Department testified that although Petitioner's

daughter and granddaughter were now living with her, Petitioner's daughter was required to submit a separate application for FIP benefits for herself and her child, as Petitioner's daughter was no longer considered a dependent child per Department policy. See BEM 210.

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 timely process Petitioner's change report.

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. Process Petitioner's August 28, 2015, change report in accordance with Department policies;
2. Recalculate Petitioner's FAP budget to include the additional group members;
3. Issue FAP and FIP supplements to Petitioner for any FIP and FAP benefits she was entitled to receive but did not in accordance with Department policies; and
4. Notify Petitioner in writing of the Department's decision.



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

Date Signed: **1/11/2016**

Date Mailed: **1/11/2016**

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]
[REDACTED]
[REDACTED]
[REDACTED]