

**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.: 15-021230
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: January 06, 2016
County: ALLEGAN

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 January 06, 2016, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] [REDACTED] (Assistance Payments Supervisor) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's Food Assistance Program (FAP) benefit group size?

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 is an ongoing Food Assistance Program (FAP) recipient.
2. On November 4, 2015, the Department notified the Claimant that he was approved for a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits as a group of two effective December 1, 2015.
3. On November 10, 2015, the Department received the Claimant's request for a hearing protesting the amount of his monthly allotment of Food Assistance Program (FAP) benefits.

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.

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.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

The Claimant is an ongoing FAP recipient as a group of two that was granted a \$ [REDACTED] monthly allotment of FAP benefits as a group of two effective December 1, 2015. The Claimant disputes the Department's determination of his group size for the months

before December 1, 2015, claiming that his son moved into his household in months when he was approved for FAP benefits with a group size of one.

Departmental business records indicate that the Claimant reported to the Department in a telephone conversation on November 10, 2015, that his son was in his home and no longer in the mother's home. The mother of the Claimant's son consented to her benefit records being entered in the hearing record and these regular business records indicate that on October 16, 2015, the mother reported that the son had moved out of her home on September 30, 2015, and was not expected to return. This Administrative Law Judge considered the hearsay conversations contained in these records only for the purposes of determining when the Department received this information and not to establish the truth of the matter asserted in those conversations.

The Claimant argued that his son moved into his home in August of 2015. The Claimant testified that he remembers his son moving into his home after a temporary absence from his mother's home. The Claimant also argued that both he and his son's mother reported these changes to their circumstances to the Department in a timely manner. The Claimant argued that the Department is withholding records that would verify when he reported where his son was living as of September 1, 2015.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), cert den, 318 US 783 (1943).

Based on the evidence and testimony available during the hearing, this Administrative Law Judge find that the evidence on the record as a whole supports a finding that the Claimant did not report his son moving into his home until November 10, 2015. Although the Department did redact certain records from the mother's benefit case from the hearing record, the records that were offered as evidence are consistent with the Department's explanation of the case. The Claimant's testimony lacks objective evidence demonstrating any inconsistencies in the Department's records. Regardless of when the Claimant's son actually moved into his home, the Claimant failed to establish that he reported his son's presence in his home before November 10, 2015. Furthermore, the records that were entered into the record are consistent with the son moving into the Claimant's home in October after a temporary absence from his mother's home.

The Claimant also testified that his circumstances are identical to those of his son's mother, yet the mother receives more FAP benefits than he does. The Claimant argued

that this is further evidence that his benefits case is being mishandled by the Department.

This Administrative Law Judge finds that the amount of FAP benefits awarded to the mother of the Claimant's son is not relevant to the issue of whether the Department properly determined the Claimant's eligibility for FAP benefits.

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 the Claimant's Food Assistance Program (FAP) benefits effective December 1, 2015, based on his report of a change of circumstances in November of 2015.

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 Mailed: **1/8/2016**

KS/nr

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:

