



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 6, 2016
MAHS Docket No.: 16-004350
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 May 4, 2016, from Lansing, Michigan. The Petitioner appeared on her own behalf, along with her son, [REDACTED]. The Department of Health and Human Services (Department) was represented by Family Independence Managers [REDACTED] and [REDACTED].

ISSUE

Did the Department properly determine Petitioner's 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. Petitioner applied for FAP for herself and her son on January 15, 2016.
2. At the time of her application, Petitioner was a single-member FAP group recipient.
3. Petitioner has a teenage son who had been placed in the custody of Petitioner's sister.
4. During the guardianship, the son was part of the sister's FAP group.

5. As of December 17, 2016, the son was returned to Petitioner's care, but the sister had already received FAP for the son for the month of December.
6. Because the son was part of the sister's FAP group, the Department could not immediately move him to Petitioner's FAP group.
7. As of January 21, 2016 the son was added back to Petitioner's group but a hearing was pending on the sister's case at that time which delayed the Department's ability to provide FAP to Petitioner's case for the son.
8. A help desk ticket ([REDACTED]) was submitted and in time escalated to resolve the issue.
9. On April 7, 2016, the Department received Petitioner's hearing request.
10. On April 18, 2016, the Department posted to Petitioner's FAP account added benefits for the months of January, February, March, and April 2016 to reflect the group size of two.
11. Petitioner believes she should be given benefits for the partial month of December when her son was in her care.

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.

FAP group composition is governed by BEM 212 (10/1/15). At page 1 the Department Policy explains:

Bridges will help determine who must be included in the Food Assistance Program (FAP) group prior to evaluating the non-financial and financial eligibility of everyone in the group.

Food Assistance Program group composition is established by determining all of the following:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately.
4. Whether the person(s) resides in an eligible living situation; see **LIVING SITUATIONS** in this item.

If there is a caretaker for a child, other rules apply as explained at BEM 212 p. 2.

Caretaker

A caretaker is a related or unrelated person who provides care or supervision to a child(ren) **under** 18 who lives with the caretaker but who is **not** a natural, step or adopted child. This policy does **not** apply to foster children (see below). A person acting as a parent and the child(ren) for whom he acts as a parent who live with him **must** be in the same group.

Example: Emma's grandson Pete (age 15) lives with her and she receives FIP for him as an ineligible grantee. She provides for his care by giving him a place to live, clothing, etc. Emma and Pete must be in the same group.

Example: Polly's niece Peggy (age 17) lives with her. Peggy has a full-time job, pays room rent and buys her own food. Polly states that she has just provided a place to live in exchange for the room rent; she does not supervise Peggy's activities. Polly and Peggy are separate groups. Either may apply with separate group status.

Because the son was living with the sister, he had to be in the sister's group until he no longer lived with her. The rules governing his group after he moved back to his mother are found in BEM 212 p. 5.

Changes in Primary Caretaker

Re-evaluate primary caretaker status when any of the following occur:

- A new or revised court order changing custody or visitation is provided.
- There is a change in the number of days the child sleeps in another caretaker's home and the change is expected to continue, on average, for the next twelve months.
- A second caretaker disputes the first caretaker's claim that the child(ren) sleeps in their home more than half the nights in a month, when averaged over the next 12 months.
- A second caretaker applies for assistance for the same child.

Then, at p. 9 we find:

**MEMBER
ADDS/
DELETES**

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. In determining the potential FAP benefit increase, Bridges assumes the FIP/SDA supplement and new grant amount have been authorized.

Key to this case is that the change is effective the month after it is reported, or if the new member left another group, the month after the member delete.

In this case, Petitioner's son moved back to her home in December. It was not clear from the testimony whether the Department was actually made aware in December that he had returned, but for the purpose of this Decision it is assumed that the change was reported in December. In that case, the son could not be added to her group until January.


During the hearing, the Department testified that Petitioner had, since her hearing request was submitted, received supplemental benefits as of April 18, 2016, to account for the increased group size for the months of January through April. Petitioner was insistent that she did not receive any increase or supplement in her FAP benefits during April. However, during the hearing, Petitioner called a number where she was able to get information about credits and purchases on her Bridge card. The person she spoke with confirmed the statements made by the Department's witnesses regarding benefits added to her account on April 18.

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 Petitioner's FAP allotment for the months of December 2015 and January through April, 2016. While there were some technical difficulties that delayed adjustment in the benefits, those difficulties have been resolved and thus rendered that issue moot.

DECISION AND ORDER

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

DJ/mc



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Petitioner

[REDACTED]