



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: July 15, 2016  
MAHS Docket No.: 16-007836  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Michael J. Bennane**

### **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 [REDACTED], [REDACTED] from Detroit, Michigan. The Petitioner was represented by Petitioner and the Petitioner's spouse, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

### **ISSUE**

Did the Department properly provide Food Assistance Program (FAP) and Medical Assistance (MA) benefits to the mother of the Petitioner's child when the Petitioner had legal custody of his daughter?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In [REDACTED], the Petitioner gained custody of his daughter; but the Department continues to list the daughter as living with her mother and receiving benefits through her mother's benefits group.
2. On [REDACTED], the Petitioner requested a hearing to have the Department recognize the court order giving the Petitioner benefits group's the addition of his daughter.

### **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.

In this case, the Department listed the Petitioner's daughter as living with her mother and as a member of her benefits group.

At the hearing, the Petitioner testified that the [REDACTED] Circuit Court awarded custody to the Petitioner.

The Department also testified that it had submitted a "ticket" in a so-far-unsuccessful attempt to have Petitioner's daughter removed from her mother's benefits case and included in the Petitioner's benefits case.

Finally, testimony at the hearing from both the Petitioner and the Department recognizes that the Petitioner is due an FAP supplement for the period of time that the Department failed to provide benefits to Petitioner's FAP group correctly.

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 remove the child in question from her mother's home and comply with the [REDACTED] Circuit Court order that the child be placed with the Petitioner.

### **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. Comply with the court order that the Petitioner has been awarded custody of his daughter, and remove the daughter from the mother's benefits groups.
2. Supplement the Petitioner for benefits that should have been paid to him from the time the court awarded him custody.
3. The Department is also ordered to provide Medical Assistance (MA) in whatever form the Petitioner's new MA group is qualified.

MJB/jaf



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**Michael J. Bennane**  
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]

cc:

[REDACTED]