



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: January 27, 2017  
MAHS Docket No.: 16-019110  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Zainab A. 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 25, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████ ██████████, Family Independence Manager and ██████████ ██████████, Eligibility Specialist.

**ISSUE**

Did the Department properly process 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 is an ongoing recipient of FAP benefits.
2. On an unverified date, Petitioner's grandchildren (Child A, Child B, and Child C) began living with her.
3. Child A, Child B, and Child C were active recipients of FAP benefits on their mother's case. The FAP group size was four. (Exhibit A)
4. Petitioner asserted that she became the children's primary caretaker in April 2016.

5. On or around October 17, 2016, Petitioner completed an application and submitted it to the Department to have Child A, Child B, and Child C added to her active FAP case.
6. On or around December 9, 2016, Petitioner requested a hearing disputing the Department's failure to process the application and failure to add the children to her FAP case.
7. In December 2016, the Office of Inspector General initiated an investigation and determined that Petitioner was the primary caretaker of the children. (Exhibit B)
8. The children were removed from their mother's case effective February 1, 2017, and her FAP group size was reduced to one. (Exhibit A, p. 2)

### **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, Petitioner requested a hearing disputing the Department's failure to add her three grandchildren to her active FAP case in connection with the member add application that she submitted on or around October 17, 2016.

Additionally, the Department determines FAP group composition by applying the factors found in BEM 212. BEM 212 (October 2015), p. 1. For FAP cases involving a change in primary caretaker, the Department is to re-evaluate primary caretaker status when a second caretaker applies for assistance for the same child. BEM 212, pp. 3-5. 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, as a person cannot be a member of more than one FAP certified group in any given month. BEM 212, pp. 9-10.; BEM 550 (October 2015), p. 4; BEM 222 (October 2016), p. 3.

At the hearing, the Department testified that it received Petitioner's assistance application requesting to have the three grandchildren added to her FAP case, however, because Petitioner's FAP case was active, the application could not be registered. The Department stated that after receiving the application, it was discovered that the grandchildren were already FAP recipients on their mother's case and that an investigation was initiated to determine the primary caretaker. (Exhibit A; Exhibit B). The Department confirmed that it did not notify Petitioner of its eligibility decision with respect to her member add application in writing and stated that Petitioner was verbally informed that because the children were active on another case, they could not be added to her case.

The Department further testified that upon conclusion of the OIG investigation, it was determined that Petitioner is the primary caretaker and the Department began taking action to remove the children from their mother's FAP case. The Department presented evidence showing that effective February 1, 2017, the three children were removed as group members and her household size reduced to one. (Exhibit A; Exhibit B). The Department testified that because the children received benefits on their mother's case through January 2017, they would be added to Petitioner's FAP case effective February 1, 2017. However, as of the hearing date, the Department had not taken the appropriate action to add the children to Petitioner's case and recalculate her FAP budget.

### **DECISION AND ORDER**

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 processed Petitioner's FAP benefits.

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 October 17, 2016, member add application, and the reported changes in accordance with Department policies;
2. Recalculate Petitioner's FAP budget to include the children in the household for the applicable periods;
3. Issue FAP supplements to Petitioner for any FAP benefits she was entitled to receive but did not, from the application date, ongoing; and

4. Notify Petitioner in writing of the Department's decision.



ZB/tm

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**Zainab A. Baydoun**  
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

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CC: [REDACTED]  
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