



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: February 9, 2017  
MAHS Docket No.: 16-019408  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Gary Heisler

### **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 February 2, 2017, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Family Independence Specialist [REDACTED] and Assistance Payment Supervisor [REDACTED]. Department's Exhibit A, pages 1-28 was admitted into evidence.

### **ISSUE**

Did the Department properly deny Petitioner's November 4, 2016, Family Independence Program (FIP) application?

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility on December 9, 2016?

### **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 Food Assistance Program (FAP) benefits. Her Food Assistance Program (FAP) benefit group consisted of herself and [REDACTED], her 17 year old son.
2. On November 4, 2016, Petitioner submitted an application for Family Independence Program (FIP) benefits. On the application Petitioner stated that [REDACTED] lived with her and stays with her 30 days per month.

3. On November 7, 2016, Petitioner was sent a Verification Checklist (DHS-3503) requesting verification of [REDACTED] school attendance. The verification was due back on November 17, 2016.
4. On November 30, 2016, a Verification of Student Information (DHS-3380) was received by the Department. The form stated that [REDACTED] resided with [REDACTED], a school mentor. Department's Exhibit A pages 18 & 19.
5. On December 9, 2016, Petitioner was sent a Notice of Case Action (DHS-1605) which stated [REDACTED] was being removed from Petitioner's case and she was not able to receive benefits for him. The notice stated Petitioner's Food Assistance Program (FAP) benefits were being reduced to \$ [REDACTED] for a benefit group of one.
6. On December 29, 2016, Petitioner submitted a hearing request.

### **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.

Petitioner asserts that [REDACTED] sleeps at her home 2 or 3 days a week and stays with a friend of his, [REDACTED], most other days.

**Bridges Eligibility Manual 210 FIP Group Composition (7-1-2015)** provides in relevant part:

## **DEPARTMENT POLICY**

### **FIP**

Group composition is the determination of which individuals living together are included in the FIP eligibility determination group/program group and the FIP certified group. To be eligible for FIP both of the following must be true:

The group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker.

The group cannot include an adult who has accumulated more than 60 TANF funded months, beginning October 1, 1996 or any other time limits in the Family Independence Program; see BEM 234.

## **DEFINITIONS**

### **Caretaker**

A caretaker is a legal parent or stepparent living in the home, or when no legal parent or stepparent lives in the home, another adult who acts as a parent to a dependent child by providing physical care and supervision.

### **Living Together**

Living together means sharing a home where family members usually sleep except for temporary absences.

### **Primary Caretaker**

The primary caretaker is the caretaker who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a month, when averaged over a twelve-month period. The twelve-month period begins at the time the determination is being made.

## **DETERMINING PRIMARY CARETAKER**

The primary caretaker is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half the days in a month, when averaged over a twelve-month period. The twelve-month period begins at the time the determination is being made.

**Bridges Eligibility Manual 212 Food Assistance Program Group Composition (10-1-2015)** provides in relevant part:

## **DEPARTMENT POLICY**

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:

Who lives together:

The relationship(s) of the people who live together.

Whether the people living together purchase and prepare food together or separately.

Whether the person(s) resides in an eligible living situation

## **RELATIONSHIPS**

### **Primary Caretaker**

The primary caretaker is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period.

## **FOOD PURCHASE AND PREPARATION**

The phrase, purchase and prepare together, is meant to describe persons who usually share food in common.

Persons usually share food in common if any of the following conditions exist:

They each contribute to the purchase of food.

They share the preparation of food, regardless of who paid for it.

They eat from the same food supply, regardless of who paid for it.

In general, persons who live together and purchase and prepare food together are members of the FAP group.

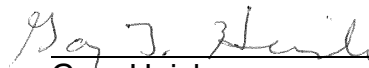
Petitioner does not qualify as [REDACTED] Primary Caretaker because he does not stay in her home more than half of the days in a calendar month. In accordance with BEM 210, Petitioner is not eligible to receive Family Independence Program (FIP) benefits for [REDACTED]. In accordance with BEM 212, Petitioner and [REDACTED] are not purchasing and preparing food together because [REDACTED] is not in the home but 2 or 3 days per week. Therefore, Petitioner is not eligible to receive Food Assistance Program (FAP) benefits for [REDACTED].

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 denied Petitioner's November 4, 2016, Family Independence Program (FIP) application and determined her Food Assistance Program (FAP) eligibility on December 9, 2016.

**DECISION AND ORDER**

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

GH/nr



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Gary Heisler  
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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Petitioner**

[REDACTED]