



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: September 12, 2017
MAHS Docket No.: 17-009105
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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; 42 CFR 438.400 to 438.424; 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 September 6, 2017, from [REDACTED], Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department or State or Respondent) was represented by [REDACTED], Hearings Facilitator and [REDACTED], Cash Worker.

Respondent's Exhibit pages P1-P41 were admitted as evidence.

ISSUE

Did the Department properly determine the begin date for Food Assistance Program (FAP) and Family Independence Program (FIP) 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. On [REDACTED], Petitioner applied for FAP and FIP for her grandchildren.
2. On [REDACTED], the caseworker received a Power of Attorney signed by the mother, giving Petitioner authority to provide personal and medical care for the children through mid-[REDACTED].
3. Through [REDACTED], the grandchildren were already active on their mother's FIP and FAP case (Case number # [REDACTED]).

4. On [REDACTED], a DHS-1605 (Notice of Case Action) was issued to the mother to advise her that FIP was closing effective [REDACTED] as the children were no longer in the mother's care.
5. The Negative action date was [REDACTED], which allowed Petitioner's case for FIP to be approved on [REDACTED], and become effective [REDACTED].
6. The children were added to Petitioner's FAP case [REDACTED], during the recertification period because the mother's certification period ended [REDACTED].
7. The local office issued Petitioner \$ [REDACTED] in gift cards for [REDACTED].

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.

The Michigan Department of Health and Human Services (MDHHS) believes that children are best served by living in supportive family settings. The mutual responsibility of family members for each other and their commitment to caring for each other are key to building strong families. Parents are responsible for the care and support of their minor children. In the absence of parents, children may be cared for by other adults having specific relationships to the children. Spouses are responsible for each other. All needy family members living together are expected to share income, assets, and expenses. The limited nature of the Family Independence Program is essential to meeting the goals of the program. BEM 210, page 1

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. BEM 212, page 1

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. BEM 210, page 1

The certified group means those individuals in the FIP EDG who meet all non-financial FIP eligibility factors. Countable income and assets of certified group members are considered in determining FIP eligibility. Certified group members have a FIP EDG participation status of Eligible Child or Eligible Adult. The EDG means those individuals living together whose information is needed to determine FIP eligibility. Based on data entry, and rules programmed into the system, Bridges assigns an EDG participation status to each member of the household. BEM 210, pages 1-2

Joint physical custody occurs when parents or other caretakers alternate taking responsibility for the child's day-to-day care and supervision in separate homes. It may be included in a court order or may be an informal arrangement between parents or other caretakers. BEM 210, page 3

Who May be a FIP Caretaker?

A legal parent or stepparent living with a dependent child is always the child's caretaker, unless the parent is a minor. See Multi-Generation and Combined Groups in this item for exceptions regarding minor parents. A person other than a legal parent or stepparent may be a caretaker only when the dependent child has no legal parent or stepparent in the home. A caretaker in the child's home, other than a parent or stepparent must be one of the following:

1. A relative who is at least age 18 and legally related to the child by blood, marriage or adoption, as any of the following:
 - Grandparent (including great or great-great).
 - Aunt or uncle (including great or great-great).

- Sibling.
 - Stepsibling. BEM 210, page 6
2. The child's legal guardian(s).
 3. An adult(s) who is at least age 21 and whose petition for legal guardianship of the child is pending.
 4. An adult, having none of the qualifying relationships above, with whom MDHHS children's services has placed a child, subsequent to a court order identifying MDHHS as responsible for the child's care and supervision. This relationship is known as unrelated caregiver, formerly fictive kin. Occasionally, a child is included in a FIP EDG when there is not a qualifying relationship to the caretaker due to mandatory EDG member policy. BEM 210, page 7

The standard of promptness (SOP) begins the date the Department receives an application/filing form, with minimum required information. BAM 115, page 15. The Department is to Certify FIP program approval or denial of the application within 45 days. BAM 115, page 16. The expedited due date (SOP) is six calendar days after the application date. The regular FAP due date (SOP) is 29 calendar days after the application date. FAP benefits must be available by the seventh day for expedited and the 30th day for regular FAP. Available means clients must have a Bridge card and access to their benefits by the seventh day for expedited and the 30th day for regular FAP benefits. BAM 115, page 17

In this case, the mother gave care and custody of her children to Petitioner through a properly executed Power of Attorney. The Power of Attorney was received by the Department on [REDACTED]. However, the mother's case remained open until a proper Notice of Case Action could be sent out and a negative action taken. Once proper notice was provided to the mother, the mother's case for FIP and FAP was adjusted to reflect the change in her household. The children's benefits under the mother's case was cancelled and benefits were opened for the children under Petitioner's FIP and FAP application effective [REDACTED].

The Department has established by the necessary competent, material and substantial evidence on the record that it properly determined the begin dates for FIP and FAP for Petitioner and her grandchildren under the circumstances. The application was processed within the standard of promptness. Clients cannot be recipients of benefits in more than one case at a time. Policy does not allow for overlapping benefit receipt. The Department's decision must be upheld.

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 acted in accordance with Department policy when it determined that the Petitioner's benefits for FIP and FAP for her grandchildren should begin [REDACTED].

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

LL/hb



Landis Lain
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]