



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: February 5, 2018  
MAHS Docket No.: 17-016512  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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. After due notice, telephone hearing was held on January 31, 2018, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Tonya Boyd.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

**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 November 22, 2017, the Third Judicial Circuit Court of Wayne County declined to take jurisdiction over Petitioner's child (KW) and returned the child to the custody of Petitioner. Exhibit A, pp 5-8.
2. On November 30, 2017, the Department received verification that Petitioner's child (KW) had returned to her household.
3. On December 15, 2017, the Department initiated the removal of Petitioner's child from a Food Assistance Program (FAP) with a foster family so that the child (KW) could be placed in Petitioner's Food Assistance Program (FAP) benefit group. Exhibit A, p 9.
4. On December 19, 2017, the Department increased Petitioner's monthly allotment of Food Assistance Program (FAP) benefits after placing her child in her benefit group effective January 1, 2018. Exhibit A, pp 10-14.

5. On December 19, 2017, the Department received Petitioner's request for a hearing protesting the Department's determination of her eligibility for Food Assistance Program (FAP) benefits. Exhibit A, pp 3-4.

### **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.

A member added to a FAP benefit group 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, a member delete should be completed in the month the local office learns of the application/member add. The Department will initiate recoupment if necessary. Department of Health and Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2017), p 9.

Petitioner was an ongoing FAP recipient and her children had been removed from her custody by Child Protective Services. On November 22, 2017, Petitioner's child (KW) was returned to Petitioner's custody after the circuit court declined to take jurisdiction over the child (KW). On November 30, 2017, the Department received notification that the child (KW) had returned to Petitioner's household. After being removed from Petitioner's household, the child (KW) had been part of another FAP benefit group and on December 15, 2017, the Department initiated the removal of the child (KW) from that FAP benefit group. On December 19, 2017, the Department notified Petitioner that her monthly allotment of FAP benefits would increase effective January 1, 2018, as a result of the child (KW) being added to the benefit group.

The Department added the child (KW) to Petitioner's benefit group after the child was removed from the household where she had been placed by Child Protective Services. The Department received notification that the child (KW) had been returned to Petitioner's household on November 30, 2017, but did not add the child to Petitioner's FAP group until January 1, 2018, which apparently could not be completed until after the child had been removed from the other FAP group.

The Department is instructed by BEM 212 to add a new member to the FAP group to month after it is reported. There is no allowance in policy for a delay to remove a child

from another benefit group. BEM 212 instructs the Department to initiate recoupment where a member cannot be deleted from a FAP benefit group before the benefits have been issued.

In this case, the Department failed to add the child (KW) to Petitioner's FAP benefit group in the month after it was reported that the child was living in Petitioner's household. 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 determined Petitioner's monthly allotment of Food Assistance Program (FAP) benefit for December of 2017, the month after it was reported that the child (KW) returned to Petitioner's household.

### **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:

Initiate a determination of the Petitioner's eligibility for Food Assistance Program (FAP) benefits effective December 1, 2017, and issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/nr

  
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Kevin Scully  
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**

Denise McCoggle  
27260 Plymouth Rd  
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Wayne 15 County DHHS- via electronic  
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M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

