



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: December 3, 2018  
MAHS Docket No.: 18-010111  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424, 45 CFR 205.10, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 28, 2018, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Supervisor, Maia Elvine-Fair, and Eligibility Specialist, Thomas Byrd, appeared for the Department. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 57-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

**ISSUES**

Did the Department properly determine Petitioner's Family Independence Program (FIP) benefit?

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit?

Did the Department properly determine Petitioner's Medical Assistance (MA) benefit?

**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 receives income of \$ [REDACTED] per month from social security. Petitioner pays \$225.00 per month for rent plus \$57.00 per month for water.

2. On [REDACTED] 2018, Petitioner applied for FIP and FAP from the Department. Petitioner listed in her application that she had a household size of 2, including herself and her son. Petitioner also represented in her application that her son was temporarily absent and not living in her home.
3. On July 31, 2018, the Department interviewed Petitioner. During the interview, Petitioner stated that her son was going to be moving back in with her.
4. In August 2018, Petitioner's son began living primarily with Petitioner.
5. On August 15, 2018, the Department issued a Notice of Case Action which notified Petitioner that she was denied FAP from July 30 through August 31, 2018, and that she was approved for a FAP benefit of \$192.00 per month effective September 1, 2018, based on a household size of one. The Department stated that it excluded Petitioner's son because he was not living with her, and the Department stated that Petitioner was ineligible for benefits through August 31, 2018, because she was active on another case.
6. On [REDACTED] 2018, Petitioner applied for FIP, FAP, and MA from the Department. Petitioner listed in her application that she had a household size of 2, including herself and her son. Petitioner also represented that her son was living in her home.
7. On September 13, 2018, the Department issued a Health Care Coverage Determination which notified Petitioner that her son was not eligible for MA because he was active on another case. The Department also issued a Notice of Case Action which notified Petitioner that her request for FIP was denied because her countable income exceeded the program limit.
8. On [REDACTED], Petitioner filed a hearing request to dispute the Department's decisions.

### **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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Here, the Department determined that Petitioner's household size for purposes of FAP and MA was only one effective August 1, 2018, and the Department determined that Petitioner's household size for purposes of FIP was zero. The Department's determination of Petitioner's group size for these programs was not in accordance with its policies because Petitioner and her son were living together as of August 1, 2018. A group for FIP, FAP, and MA includes a parent a child living together. BEM 210 (April 1, 2017), BEM 212 (January 1, 2017), and BEM 211 (January 1, 2016). Since Petitioner was living with her son as of August 1, 2018, the Department should have used a group size of two for each of these programs.

The Department also erred when it budgeted for Petitioner's FAP benefit because it did not consider the amount of rent that Petitioner was responsible for paying. An expense is only allowable if someone in the FAP group has the responsibility to pay for it. BEM 554 (August 1, 2017), p. 1. An agency assumed responsibility for paying a portion of Petitioner's rent, so the Department should not have used the entire amount of Petitioner's rent when budgeting for her FAP benefit. The Department should have only used the portion of rent that Petitioner was responsible for paying herself when budgeting for her FAP benefit.

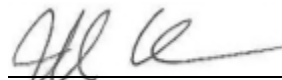
**DECISION AND ORDER**

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 its policies and the applicable law when it issued its decisions on Petitioner's requests for FIP, FAP, and MA.

IT IS ORDERED the Department's decisions are **REVERSED**.

IT IS FURTHER ORDERED that the Department shall initiate a reevaluation of Petitioner's eligibility for these programs.

JK/nr



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Jeffrey Kemm  
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) 763-0155; 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**

Tiffany Flemings  
22 Center Street  
Ypsilanti, MI 48198

Washtenaw County DHHS- via electronic  
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]