

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-41596

Issue No: 1000, 3002

[REDACTED]

[REDACTED]

Ingham County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing dated July 5, 2011. After due notice, a telephone hearing was held on August 2, 2011. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly determine that Claimant's FIP and FAP benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an active recipient of FAP benefits and has a group size of 12 (twelve).
2. On March 1, 2011, the department closed Claimant's FIP benefits due to a noncooperation sanction for a period of 3 (three) months until May 31, 2011.¹ (Department Exhibits 10-12).
3. On May 17, 2011, the department mailed Claimant a Redetermination form (DHS-1010) which scheduled a telephone appointment for June 3, 2011. (Department Exhibits A1-A4). Claimant sent the department all requested information and attended the telephone conference on June 3, 2011. (Hearing Summary).

¹ As of the date of the hearing in this matter (August 2, 2011), Claimant was not active for FIP nor had he reapplied for FIP benefits.

4. The department processed Claimant's information and identified that the department was no longer actively recouping [REDACTED] from one of the household group members based on an SSI overissuance. (Department Exhibit 5).
5. Claimant's total gross household unearned income is [REDACTED] (Department Exhibit 15).
6. On June 21, 2011, the department mailed Claimant a Notice of Case Action (DHS-1065) indicating that his monthly FAP allotment is [REDACTED]. (Department Exhibits 13-15).
7. Claimant submitted a hearing request on July 5, 2011 regarding his FAP allotment as well as his FIP. (Request for a Hearing).

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-

3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

MAC 400.903 lays out instances where recipients of assistance have a right to an administrative hearing within the Michigan DHS. This rule specifies when an opportunity for a hearing shall be granted:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC 400.903(1).

At the time of Claimant's request for a hearing concerning FIP, Claimant's FIP benefits had been closed since March 31, 2011 because Claimant failed to comply with the JET program employment related activities. As of the date of the hearing in this matter, there was no indication that Claimant had reapplied for FIP benefits. Claimant does not have any active FIP benefits. Thus, the department had not taken any action to suspend, reduce, discontinue or terminate the claimant's FIP benefits. To the extent that Claimant attempts to appeal the department's closure of his FIP on March 31, 2011, he is beyond the time period. Any hearing request which protests a denial, reduction or termination of benefits must be filed within 90 days of the mailing of the negative action notice. MAC R 400.902; MAC R 400.903; MAC R 400.904. Here, Claimant's request for a hearing was filed on July 5, 2011, which is more than 90 days after the mailing of the negative action notice.

Therefore, it is not necessary for the Administrative Law Judge to decide the FIP issue. Pursuant to MAC R 400.902; 400.903 and 400.904, claimant's hearing request is HEREBY DISMISSED, because the claimant's hearing request was not submitted timely and because Claimant does not have an active FIP question that can be adjudicated. Under the administrative rule discussed above, Claimant does not have a right to a hearing regarding the FIP question and thus, this Administrative Law Judge has no jurisdiction pertaining to his FIP benefits.

The only remaining issue concerns the department's calculation of Claimant's FAP allotment. Here, Claimant does not dispute that his household was receiving monthly unearned income in the amount of [REDACTED] at the time relevant to this matter. The department discontinued its recoupment of [REDACTED] of an SSI overissuance on March 31, 2011. Nor does Claimant challenge that this resulted in an increase in his monthly income for purposes of his FAP calculation. After Claimant sent the department the DHS-1010 form and the department processed Claimant's household income, Claimant's FAP was reduced. There was no dispute that Claimant took in [REDACTED] per month in unearned income from SSI. Claimant's group size is 12. To calculate the adjusted gross income, the unearned income amount is subtracted by the standard deduction for group size greater than 6. See RFT 255. [REDACTED] = [REDACTED]. Therefore, Claimant's group had an adjusted gross income of [REDACTED].

minus an excess shelter deduction of [REDACTED] resulting in Claimant receiving [REDACTED] in net income. RFT 260.

A claimant with a group size of 12 (twelve) has a maximum net income limit of \$ [REDACTED] plus [REDACTED] economic recovery amount minus 30% of Claimant's net income ([REDACTED]) equals [REDACTED]. Therefore, the department properly calculated that Claimant is entitled to \$ [REDACTED] in FAP benefits for the time period in question.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in determining Claimant's FAP eligibility.

The department's FAP eligibility is AFFIRMED.

With regard to Claimant's request for a hearing regarding FIP benefits, Claimant's hearing request is HEREBY DISMISSED for lack of jurisdiction.

IT IS SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/23/11

Date Mailed: 8/23/11

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CAP/ds

