

5. Both adverse actions were to begin effective 8/2012.
6. On 7/23/12, Claimant requested a hearing to dispute the adverse actions to her FAP and FIP benefit eligibility.
7. DHS conceded that the adverse actions were improper because Claimant's children's father is a disabled individual who should be deferred from WPP participation.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The law provides that disposition may be made of a contested case by stipulation or agreed settlement. MCL 24.278(2). In the present case, Claimant requested a hearing to dispute a reduction of FAP benefits and termination of FIP benefits. DHS provided testimony that Claimant's children's father was a disabled individual and should not have been sent to participate with WPP. Thus, he could not have been noncompliant for failing to participate in a program with which he had no obligation to attend. DHS proposed that Claimant's eligibility for FAP and FIP benefits be redetermined effective 8/2012 subject to the agreement that Claimant's children's father was not noncompliant with WPP. Claimant accepted the DHS proposal. As the agreement appears to comply with DHS regulations, the settlement among the parties shall be accepted.

It should be noted that DHS indicated that once DHS recalculates Claimant's eligibility for FAP and FIP benefits for 8/2012 there may still be a reduction and or termination of benefits. DHS indicated that previous benefit issuances were based on budgets which failed to factor countable income of Claimant's children's father. DHS conceded that the failure to budget the income was completely their own fault. This decision makes no findings concerning budgets and issuances that have yet to be performed. It will be noted that DHS is not required to continue factoring incorrect income amounts simply because the amounts were previously budgeted. If Claimant objects to the yet to be determined benefit issuances, Claimant can request another hearing after the case action is made.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact, conclusions of law and by agreement of the parties, finds that DHS improperly determined Claimant's eligibility for FAP and FIP benefits effective 8/2012. It is ordered that DHS:

1. redetermine Claimant's eligibility for FAP and FIP benefits effective 8/2012, subject to the agreement that DHS improperly found Claimant's children's father was not noncompliant with WPP participation;
2. supplement Claimant for any benefits, if any, not issued as a result of the improper DHS actions' and
3. remove any relevant disqualification from Claimant's disqualification history.

The actions taken by DHS are REVERSED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/19/2012

Date Mailed: 10/19/2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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.

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