

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

IN THE MATTER OF:



Reg. No.: 201324532
Issue No.: 1022
Case No.:
Hearing Date: May 15, 2013
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on May 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included , Family Independence Manager.

ISSUE

Did the Department properly reduce Claimant's 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. Claimant was an ongoing recipient of FIP benefits.
2. On December 28, 2012, the Department sent Claimant a Notice of Case Action notifying her that, effective December 1, 2012, her FIP benefits were reduced due to the removal of Claimant and her two minor children, and , from the FIP group because they were "not a dependent child, a caretaker/relative of a child, not pregnant, not aged or disabled, not a refugee or does not have a qualifying relationship to other household members."

3. On January 8, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Additionally, in a December 28, 2012 Notice of Case Action, the Department notified Claimant that, effective December 1, 2012, it was reducing her FIP group from five members to two, leaving only Claimant's grandchildren, [REDACTED] and [REDACTED], in the group. The Notice provided that [REDACTED] and [REDACTED] were ineligible for cash assistance because they were "not a dependent child, a caretaker/relative of a child, not pregnant, not aged or disabled, not a refugee or does not have a qualifying relationship to other household members."

At the hearing, the Department acknowledged Claimant's two children were dependent children and that Claimant was the children's caretaker and that, consequently, the reason listed on the Notice for removal of [REDACTED] from Claimant's FIP group was erroneous. See BEM 210 (October 2011), p 1. However, the Department testified that Claimant's FIP case was nonetheless properly closed because Claimant had exceeded the federal lifetime limit for receipt of FIP benefits, having received 113 months of FIP benefits through November 2012. The Department explained that Claimant was eligible to receive benefits on her grandchildren's behalf as an ineligible grantee. However, the FIP 60-month federal time limit was suspended effective March 28, 2012 and continued to be suspended in December 2012, when the Department issued its Notice of Case Action reducing Claimant's FIP benefits as of November 30, 2012. See Department of Human Services Bridges Policy Bulletin (BPB) 2012-005. Therefore, the Department did not act in accordance with Department policy when it removed Claimant and her two minor children from the FIP group and reduced Claimant's FIP benefits.

At the hearing, Claimant also expressed concerns because her minor son [REDACTED] had not been included in the FIP group. The evidence presented by the Department showed that, prior to Claimant's FIP group being reduced to just the two grandchildren, there were five members in Claimant's group beginning when Claimant's FIP issuance began on March 16, 2012. A dependent child living with his legal parent is a mandatory

FIP group member unless the he received benefits or services that affected his participation status, such as receipt of Supplemental Security Income (SSI) benefits. BEM 210, pp 1, 4, 6.

In this case, Claimant testified that [REDACTED] was fifteen years old at the time at issue, that he is her child, that he lives with her, and that neither she nor [REDACTED] receive SSI benefits. Under these facts [REDACTED] would be a mandatory member of Claimant's FIP group. The Department could not establish who the five individuals in Claimant's FIP group were, or explain why [REDACTED] would not be included in the group. Thus, the Department failed to satisfy its burden of showing that it properly calculated Claimant's FIP group size from the time it began issuing Claimant FIP benefits on March 16, 2012. If there is an agency error in the determination of Claimant's FIP group size that resulted in an underissuance of FIP benefits to Claimant, Claimant is eligible for a FIP supplement. See BAM 405 (November 2012).

DECISION AND ORDER

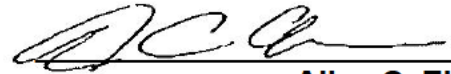
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that (i) the Department did not act in accordance with Department policy when it reduced Claimant's FIP group size to two effective December 1, 2012, and reduced her FIP benefits and (ii) the Department failed to satisfy its burden of showing that it properly calculated Claimant's FIP group size and FIP benefit amount beginning March 16, 2012.

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Add Claimant and her two minor children, Demetrius and Jada, back to Claimant's FIP group effective December 1, 2012;
2. Review Claimant's record from March 16, 2012, ongoing, to determine, in accordance with Department policy, Claimant's FIP group size;
3. Begin recalculating Claimant's FIP budget from March 16, 2012, ongoing, in accordance with Department policy, based on Claimant's corrected FIP group size;
4. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from March 16, 2012, ongoing; and

5. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/28/2013

Date Mailed: 5/28/2013

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:

