

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-39766  
Issue No.: 1002  
Date: [REDACTED]  
County: Genesee DHS (02)

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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 [REDACTED], from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

**ISSUE**

Whether the Department of Human Services (Department) properly determined the Claimant's Family Independence Program (FIP) eligibility?

**FINDINGS OF FACT**

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

1. The Claimant has been on ongoing Food Assistance Program (FAP) recipient since [REDACTED].
2. The Claimant reported to the Department that his children were living in his home on [REDACTED].
3. The Claimant applied for Family Independence Program (FIP) benefits on [REDACTED].
4. On [REDACTED], the Department granted supplemental Food Assistance Program (FAP) benefits as of [REDACTED].

5. The Department received the Claimant's request for a hearing on [REDACTED], protesting the Department's refusal to issue supplemental Family Independence Program (FIP) benefits before [REDACTED]

### **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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.

The Department will determine eligibility and benefit amounts for all requested programs. An application for cash assistance is an application for medical assistance, even if medical assistance is not checked as a program being applied for on the application. The Department will review the effect on eligibility whenever the client reports a change in circumstances. Department of Human Services Bridges Assistance Manual (BAM) 105 (March 1, 2013), p 11.

When a client makes a request by letter or telephone, the Department will mail the client an application by the end of the next workday. If the application is not returned, the requester must be contacted according to local office procedures. Department of Human Services Bridges Assistance Manual (BAM) 110 (January 1, 2013), p 2.

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The State Office of Administrative Hearings and Rules ("SOAHR") may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments
- Reduction in the amount of program benefits or service
- Suspension or termination of program benefits or service
- Restrictions under which benefits or services are provided
- Delay of any action beyond the standard of promptness
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Assistance Manual (BAM) 600.

The Claimant has been an ongoing Food Assistance Program (FAP) recipient since [REDACTED]

The Claimant reported to the Department that his children were living in his home as of [REDACTED].

The Claimant testified that he was informed that the Department would not add his children to his Food Assistance Program (FAP) benefit group or approve him for Family Independence Program (FIP) benefits because his children were active on the benefit group of another person for these benefits.

This Administrative Law Judge finds that upon notification of the change to the Claimant's circumstances, the Department should have asked the Claimant to clarify what benefits he was requesting and given him instructions for applying for these benefits. Based on the evidence and testimony available during the hearing, the Department did not instruct the Claimant to apply for benefits he may have been eligible to receive. As a result, the Claimant may have delayed his application for benefits until [REDACTED].

Had the Department properly instructed the Claimant how he could submit an application for benefits, he may have been eligible to receive benefits sooner.

However, the Claimant failed to establish that he submitted a valid application for Family Independence Program (FIP) benefits before [REDACTED], and therefore the Department's failure to issue benefits before [REDACTED], is not a denial of an application. It is not a denial of a supplemental payment, reduction of a program benefit, or suspension or a program benefit for an inactive benefit period. No restrictions were placed on the Claimant's benefits and there was not delay in processing the Claimant's case.

This Administrative Law Judge finds the Department's informal evaluation of the Claimant's ineligibility for benefits on [REDACTED], was not in accordance with policy.

However, this failure to follow the requirements of the Department of Human Services Bridges Assistance Manual does not fall under the circumstances that place the Claimant's grievance within the jurisdiction of the Michigan Administrative Hearing System (MAHS).

During a previous hearing (REG # [REDACTED]) this Administrative Law Judge found that the Department failed to establish that the Claimant's benefit group size and composition had been properly determined, and the Claimant's request for a hearing received by the Department on [REDACTED], was a timely request for Department actions back through [REDACTED]. Therefore, this Administrative Law Judge ordered the Department to redetermine eligibility through [REDACTED].

However, before this Administrative Law Judge may order the Department to issue benefits, the Claimant has the burden of establishing eligibility to receive those benefits. In this case, the Claimant failed to establish that he was eligible to receive Family Independence Program (FIP) benefits before his [REDACTED], application.

Therefore, the Department was acting in accordance with policy when it refused to issue a Family Independence Program (FIP) supplement for the period before the [REDACTED], application for benefits was approved.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's refusal to issue supplemental Family Independence Program (FIP) benefits for the period before his [REDACTED], application for benefits is **UPHELD**.

The Department's Family Independence Program (FIP) eligibility determination is **AFFIRMED**, it is **SO ORDERED**.

\_\_\_\_\_  
**Kevin Scully**  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: \_\_\_\_\_

Date Mailed: \_\_\_\_\_

**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.

2013-39766/KS

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

KS/kl

cc:

