

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2103-49443
Issue No.: 1034
Case No.: [REDACTED]
Hearing Date: June 24, 2013
County: Wayne (82-17)

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 June 24, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly sanction and close Claimant's Family Independence Program (FIP) case and sanction and disqualify Claimant as a member of her Food Assistance Program (FAP) case?

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 and FAP benefits.
2. On or about March 1, 2013, the Department sanctioned Claimant's FAP case for noncompliance with employment-related activities.
3. On or about April 1, 2013, the Department sanctioned Claimant's FIP case with a six-month closure for noncompliance with employment-related activities.
4. On May 21, 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.

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 Mich Admin Code, R 400.3001 through R 400.3015.

Additionally, at the hearing, the Department acknowledged that it had erred when it closed and sanctioned Claimant's FIP case on or about April 1, 2013, for noncompliance with employment activities and admitted that Claimant was entitled to FIP benefits commencing April 2013.

The Department also testified that it erroneously sanctioned Claimant's FAP case for noncompliance with employment activities on or about March 1, 2013, by removing Claimant as a qualified member of her FAP group and leaving her minor child as the sole FAP group member. However, the Department acknowledged that Claimant's FAP group size had been one even prior to the improperly imposed sanction. The record showed that Claimant had been subject to a six-month FAP disqualification due to noncompliance with employment-related activities that ended August 31, 2012, and the Department testified that Claimant's group size remained one after the sanction expired. A client subject to a FAP disqualification must satisfy the terms of BEM 233B (December 2011 and January 2013), pp. 7-8, to become a qualified member of the FAP group and be included in the calculation of the group's FAP benefit amount.

In this case, the Department filed a Remedy Ticket Submission Form, which was assigned [REDACTED], concerning the FAP issue. But the Ticket only referenced Claimant's May 2013 FAP benefits. At the hearing, the Department failed to satisfy its burden of showing that Claimant continued to be a disqualified member of her FAP group from September 1, 2012, ongoing. Further, there was evidence that Claimant had reapplied for FIP in February 2013, and, in complying with the work participation program at that time, would have reestablished her FAP eligibility then. BEM 233B, pp. 7-8. Thus, the Department failed to satisfy its burden of showing that it

acted in accordance with Department policy when it calculated Claimant's FAP eligibility and benefit amount from September 1, 2012, ongoing.

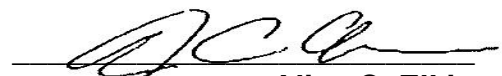
DECISION AND ORDER

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 the Department did not act in accordance with Department policy when it sanctioned Claimant's FIP and FAP cases and closed Claimant's FIP case and failed to satisfy its burden of showing that it acted in accordance with Department policy when it reduced Claimant's FAP benefits from September 1, 2012, ongoing.

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. Remove the FIP sanction for noncompliance with employment activities applied to Claimant's case on or about April 1, 2013;
2. Remove the FAP sanction for noncompliance with employment activities applied to Claimant's case on or about March 1, 2013;
3. Begin recalculating Claimant's FAP benefits from September 1, 2012, ongoing to include Claimant as a qualified group member of her FAP group if Claimant reestablished FAP eligibility in accordance with Department policy;
4. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from April 1, 2013, ongoing;
5. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from September 1, 2012, ongoing;
6. Notify Claimant in writing of its decision; and
7. Take each of the preceding steps in accordance with Department policy.



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

Date Signed: June 25, 2013

Date Mailed: June 25, 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 affect 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/pf

cc:

