

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

IN THE MATTER OF:



Reg. No.: 2013-55785
Issue No.: 1080, 3006, 3014
Case No.: [REDACTED]
Hearing Date: July 29, 2013
County: Wayne DHS (76)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 July 29, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The first issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefit eligibility due to meeting the lifetime limits.

The second issue is whether DHS properly imposed a child support sanction affecting Claimant's Food Assistance Program (FAP) benefit eligibility.

The third issue is whether DHS properly excluded an adult child from a FAP benefit determination.

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 FIP and FAP benefit recipient.
2. Through 6/2013, Claimant received FIP benefits for 60 federal countable months.
3. On an unspecified date, Claimant credibly reported to the Office of Child Support (OCS) that she was unable to identify the father for one of her children.

4. On an unspecified date, DHS determined that Claimant was noncompliant with cooperating in obtaining child support.
5. On an unspecified date, DHS initiated termination of Claimant's FIP benefit eligibility, effective 7/2013, due to Claimant's receipt of FIP in 60 countable months.
6. On 6/19/13, DHS initiated a reduction of FAP benefits, effective 8/2013, in part, based on group size of one person following imposition of a child support disqualification against Claimant and the exclusion of an older second child, which was not reported by Claimant as a household member (see Exhibits 1-2).
7. On 6/25/13, Claimant requested a hearing to dispute the FIP benefit termination and FAP benefit group composition.

CONCLUSIONS OF LAW

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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a FIP benefit termination. It was not disputed that the termination was based on Claimant meeting the lifetime limit for receiving federally-funded FIP benefits.

The FIP benefit program is not an entitlement. BEM 234 (1/2013), p.1. Time limits are essential to establishing the temporary nature of aid as well as communicating the FIP philosophy to support a family's movement to self-sufficiency. *Id.*

On 10/1/2007, Michigan law reduced the cumulative total of FIP to 48 months during an individual's lifetime. *Id.* Notwithstanding, under the Family Independence Program, a family is not eligible for assistance beyond 60 consecutive or non-consecutive federally funded months. *Id.* Federally funded countable months began to accrue for FIP on 10/1/96. Each month an individual receives federally funded FIP, the individual receives a count of one month. *Id.* A family is ineligible when a mandatory member of the FIP group reaches the 60 TANF-funded month federal time limit. *Id.*

It was not disputed that Claimant received 60 countable federal months of FIP benefits (see Exhibits 3-5). Claimant did not present any arguments to dispute the count. It is found that DHS properly terminated Claimant's FIP benefit eligibility, effective 7/2013,

due to Claimant reaching the 60 month lifetime limit for receiving federally-funded FIP benefits.

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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute a FAP benefit reduction. It was not disputed that DHS factored a group size of one in determining Claimant's FAP eligibility, effective 8/2013 (see Exhibits 1-2). Claimant testified that she was part of a FAP group that included her two children.

DHS presented testimony that one of Claimant's children was not included because Claimant did not report that she lived with an adult child. Claimant conceded that she did not list the child on her most recently submitted application.

FAP group composition is established by determining all of the following: who lives together, the relationship(s) of the people who live together, whether the people living together purchase and prepare food together or separately and whether the person(s) resides in an eligible living situation. BEM 212 (11/2012), p. 1. The relationship(s) of the people who live together affects whether they must be included or excluded from the group. *Id.* First, DHS is to determine if they must be included in the group. *Id.* If they are not mandatory group members, then DHS is to determine if they purchase and prepare food together or separately. *Id.* Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (9/2012), p. 1.

Claimant cannot expect DHS to include a child in a benefit determination if Claimant did not list the child on her application. Claimant presented testimony implying that DHS forced her to omit the child from the application. Claimant's testimony was not credible. If Claimant truly lives with an adult child, then she should have listed the child on the application. It is found that DHS properly excluded an adult child from a FAP benefit determination.

It was not disputed that Claimant was excluded from the FAP benefit determination, effective 8/2013. It was not disputed that DHS excluded Claimant due to a child support disqualification.

Concerning FAP benefit eligibility, the custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (12/2011), p. 1. Failure to cooperate without good cause results in

disqualification. *Id.* Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. *Id.* The support specialist (i.e. OCS) determines cooperation for required support actions. *Id.*, p. 8.

For FAP benefit eligibility, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. *Id.*, p. 11. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. *Id.* The remaining eligible group members will receive benefits. *Id.*

DHS alleged that Claimant failed to provide sufficient information for the paternity of her youngest child. Claimant responded that she contacted the Office of Child Support and advised someone that she did not know the identity of her youngest child's father. Claimant testified that she made some efforts to identify the father, but her efforts were to no avail. It was not disputed that Claimant's child has a different last name from her. Claimant clarified that the man she thought to be the child's father was verified to not be the child's father by a DNA test.

Claimant's testimony was not blisteringly persuasive, but was reasonably plausible. Claimant's testimony was also not rebutted as DHS did not present any testimony from a person with knowledge of Claimant's cooperation efforts. It should be noted that a call was made to an OCS representative during the hearing, but that the OCS voicemail system did not allow direct contact to the OCS representative.

Based on the presented evidence, DHS failed to establish a basis for a child support disqualification against Claimant. Accordingly, the exclusion of Claimant from the FAP benefit determination was improper.

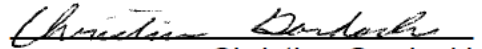
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefit eligibility, effective 7/2013. It is also found that DHS properly excluded an adult child from a FAP benefit determination effective 8/2013 due to Claimant's failure to report the child as a household member. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly reduced Claimant's FAP benefit eligibility. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility, effective 8/2013, subject to the finding that Claimant was compliant with establishing child support;
- (2) supplement Claimant for any benefits not issued as a result of the improper DHS determination; 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: 8/7/2013

Date Mailed: 8/7/2013

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,
 - 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

CG/hw

cc:

