

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-1907
Issue No.: 1034; 3003
Case No.: ██████████
Hearing Date: October 31, 2013
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 31, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Case Manager.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective October 1, 2013, ongoing?

Did the Department properly close Claimant's Family Independence Program (FIP) benefits effective June 1, 2013, ongoing?

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 is an ongoing recipient of FAP benefits. See Exhibit 1.
2. Claimant was an ongoing recipient of FIP benefits. See Exhibits 1 and 2.
3. On February 10, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective March 1, 2013, ongoing, due to Claimant exceeding the lifetime limit for FIP benefits. See Exhibit 2.

4. Claimant subsequently filed a hearing request disputing that closure and on April 4, 2013, an Administrative Law Judge (ALJ) ordered the Department to reinstate Claimant's FIP case from the date of closure and to supplement for lost benefits.
5. On May 3, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits continued from March 1, 2013, to May 31, 2013, in the amount of \$318. See Exhibit 2.
6. Effective June 1, 2013, ongoing, Claimant's FIP benefits closed, however, no Notice of Case Action was sent to Claimant regarding the closure of her FIP benefits. See Exhibit 2.
7. On September 10, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$257 effective October 1, 2013, ongoing. See Exhibit 1.
8. On September 24, 2013, Claimant filed a hearing request, protesting the amount of her FAP benefits and the closure of her FIP benefits. Exhibit 2.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

FAP benefits

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (July 2013), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 7. The Department uses one of

the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, pp. 7-8.

For child support income, the Department uses the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505, p. 3.

For Supplemental Security Income (SSI), the Department counts the gross amount of current SSA-issued SSI as unearned income. BEM 503 (July 2013), p. 32.

It was not disputed that the certified group size was three and that the FAP group does contain a senior/disabled/disabled veteran (SDV) member. The Department presented the October 2013 FAP budget for review. See Exhibit 1. The Department calculated Claimant's total net earned income amount to be \$344. See Exhibit 1. The Department also calculated Claimant's unearned income to be \$944, which consisted of Claimant's child support income and her child's SSI income. See Exhibit 1. The total income was found to be \$1,288. See Exhibit 1.

However, it was discovered during the hearing that Claimant stopped working at the end of September 2013. Claimant testified that she is off for eight weeks for medical reasons. Claimant testified that the last pay stub she received was September 19, 2013. Claimant testified that she notified the Department that she stopped working prior to her surgery, which was [REDACTED]. It should also be noted that Claimant's caseworker was not present for the hearing. The Department was unable to rebut Claimant's testimony.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (July 2013), p. 8. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 8. This includes the starting or stopping of employment for earned income. See BAM 105, p. 8. For FAP cases, the Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2013), p. 6. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, pp. 6-7.

Based on the foregoing information, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly calculated Claimant's FAP benefits effective October 1, 2013, ongoing. Claimant credibly testified that she notified the Department that she stopped working. The Department was unable to rebut Claimant's testimony to indicate whether it processed this change report. The Department will initiate verification of Claimant's stopping of employment and recalculate her FAP benefits for October 1, 2013, ongoing, to reflect the change in earned income, in accordance with Department policy.

It should also be noted that the Department applied the appropriate \$151 standard deduction applicable to Claimant's group size of three. BEM 550, p. 1; RFT 255 (October 2013), p. 1.

Also, because the FAP group does contain SDV members, the Department allows excess shelter. BEM 550, p. 1. The Department presented evidence that Claimant does not have any rental/mortgage expenses, which she did not dispute. The Department also testified that Claimant does have \$152.54 for property taxes, which she did not dispute. Property taxes, state and local assessments and insurance on the structure are allowable expenses. BEM 554 (July 2013), p. 13. Thus, Claimant is entitled to the \$152.54 in property taxes to be considered as an allowable expense.

However, Claimant also testified that she has approximately \$80 to \$89 in homeowners insurance. BEM 554 states the Department does not allow insurance costs for the contents of the structure, for example, furniture, clothing and personal belongings. BEM 554, p. 13. Also, renter's insurance is not allowed. BEM 554, p. 13.

At the hearing, Claimant presented a Rental Dwelling Policy, which the coverage was applicable to the shelter. See Exhibit A. Property taxes, state and local assessments and insurance on the structure are allowable expenses. BEM 554, p. 13. Based on this information and evidence, the Rental Dwelling Policy is an allowable expense. A review of the document indicates that it is insurance on the structure. BEM 554, p. 13. The Department is to include the insurance in the calculation of Claimant's shelter budget effective October 1, 2013, ongoing.

In summary, the Department failed to process Claimant's change report for stopping of employment and a change in shelter expenses. The Department will only initiate verification of Claimant's stopping of employment because proof of the change in shelter expenses was provided at the hearing. The Department will recalculate Claimant's FAP benefits to reflect the change in earned income and shelter expenses for October 1, 2013, ongoing.

FIP benefits

On February 10, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective March 1, 2013, ongoing due to Claimant exceeding the lifetime limit for FIP benefits. See Exhibit 2. Claimant subsequently filed a hearing request disputing the closure and on April 4, 2013, an ALJ ordered the Department to reinstate Claimant's FIP case from the date of closure and to supplement for lost benefits. On May 3, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits continued from March 1, 2013, to May 31, 2013, in the amount of \$318. See Exhibit 2. Effective June 1, 2013 ongoing, Claimant's FIP benefits closed.

Additionally, a review of the Notice of Case Action (dated May 3, 2013) did not notify the Claimant that her benefits would be closed effective June 1, 2013, ongoing. See Exhibit 2. Also, the Department failed to provide any evidence that it sent a Notice of Case Action to the Claimant regarding the closure of her FIP benefits effective June 1, 2013, ongoing.

A negative action is a DHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220, p. 1. Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220, p. 1. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220, p. 1.

An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). BAM 220, p. 2. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220, p. 4. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220, p. 4. The action is pended to provide the client a chance to react to the proposed action. BAM 220, p. 4.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective June 1, 2013, ongoing. The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to notify the Claimant that her FIP benefits closed effective June 1, 2013, ongoing. A review of policy indicates that Claimant has to receive timely notice of a FIP closure. See BAM 220, p. 4. The Department will be ordered to reinstate Claimant's FIP benefits as of June 1, 2013, ongoing, and determine Claimant's FIP eligibility as of the closure date in accordance with Department policy.

It should also be noted that Claimant's hearing request disputing the FIP closure is timely. As stated previously, Claimant never received proper notice that her FIP benefits would close effective June 1, 2013, ongoing.

DECISION AND ORDER


The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department (i) failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly calculated Claimant's FAP benefits effective October 1, 2013, ongoing, and (ii) improperly closed Claimant's FIP benefits effective June 1, 2013, ongoing, in accordance with Department policy.

Accordingly, the Department's FAP and FIP decisions are REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS

HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate verification of Claimant's stopping of employment;
2. Begin recalculating the FAP budget for October 1, 2013, ongoing, including a change in Claimant's earned income/shelter expenses and in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2013, ongoing;
4. Reinstate Claimant's FIP case as of June 1, 2013, ongoing;
5. Determine Claimant's FIP eligibility effective June 1, 2013, ongoing, and in accordance with Department policy;
6. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from June 1, 2013, ongoing; and
7. Notify Claimant in writing of its FIP and FAP decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 4, 2013

Date Mailed: November 4, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;

- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]