

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-636
Issue No.: 3002, 2000
Case No.: [REDACTED]
Hearing Date: October 30, 2013
County: Macomb-20

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 30, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly determine Claimant's Food Assistance Program (FAP) allotment for the month of September 2013?

FINDINGS OF FACT

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

1. On September 9, 2013, the Claimant applied for Medical Assistance and FAP for herself and her 19 year old son. (Exhibit 1, pages 1-15)
2. On the September 9, 2013, application the Claimant reported no one in the home has job income and that her son was in school half time. (Exhibit 1, pages 10 and 13)
3. On September 11, 2013, a phone interview was conducted and the Claimant reported her son was a student and that he was not working. (Eligibility Specialist Testimony)

4. On September 11, 2013, the Department issued a Notice of Case Action to the Claimant, in part stating the Claimant was approved for FAP with a monthly allotment of \$ [REDACTED] but the Claimant's son was considered and illegible student for FAP. (Exhibit 1, pages 18-20)
5. On September 17, 2013, the Claimant submitted a Change Report stating her son did not register for school this semester. (Exhibit 1, page 21)
6. The Department updated the Claimant's son's educational enrolment status as of September 17, 2013. (Exhibit 1, page 22)
7. On September 18, 2013, the Department issued a Notice of Case Action to the Claimant stating the monthly FAP allotment would be \$ [REDACTED] starting October 1, 2013, noting the Claimant's son was included in the FAP group. (Exhibit 1, pages 24-25)
8. On September 27, 2013, the Claimant filed a Request for Hearing contesting the amount of the FAP benefits. (Request for Hearing)¹

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 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.

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.

¹ The Claimant also marked that she was contesting FAP denial, FAP closure and Medicaid denial on the Request for Hearing form. During the October 30, 2013 telephone hearing proceedings, the Claimant testified her only issue regarding the actions taken by the Department on the September 6, 2013 application was the amount of the FAP allotment for the month of September 2013. The other actions the Claimant contests date back to April 2013 and are from older benefit cases and applications. The Claimant testified she previously filed a separate request for hearing. There is no jurisdiction to review case actions taken in April 2013 based on the October 27, 2013 request for hearing. BAM 600. Further, res judicata precludes considering actions already contested in a prior request for hearing as part of this hearing proceeding.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Additionally, for FAP, a person in student status must meet certain criteria in order to be eligible for assistance. BEM 212 addresses FAP group composition. BEM 245 sets out the criteria for student status. A person who is in student status and does not meet the criteria in BEM 245 is a non-group member. BEM 212

The Department made the initial FAP determination based on information Claimant provided on the September 9, 2013, application and reported during the September 11, 2013, telephone interview. It was uncontested the Claimant reported her son was in school half time and was not working. Based on the available information, the Claimant's son did not meet the criteria in BEM 245 to be an eligible student. Accordingly, the Department issued the September 11, 2013 case action notice, in part, stating the

Claimant was approved for FAP with a monthly allotment of \$ [REDACTED] but the Claimant's son was considered an illegible student for FAP. (Exhibit 1, pages 18-20)

On September 17, 2013, the Claimant submitted a Change Report stating her son did not register for school this semester. (Exhibit 1, page 21) The Claimant explained that initially her son told her that he was going to register for classes. However, the Claimant later learned that her son never registered for classes. The Claimant is seeking to have the FAP benefit for the month of September 2013 increased because her son never actually registered for classes. (Claimant Testimony)

The change report was not submitted until [REDACTED] after the initial FAP determination was issued. This change would add the son as a FAP group member. However, a member add that increases benefits is effective the month after it is reported. BEM 212 Accordingly, the Department could not increase the FAP allotment for the month of September 2013 based on the September 17, 2013 change report. Rather, the member add and FAP benefit increase went into effect the month after this change was reported in accordance with the BEM 212 policy.

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

acted in accordance with Department policy when it determine Claimant's Food Assistance Program (FAP) allotment for the month of September 2013.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 6, 2013

Date Mailed: November 6, 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

CL/sw

cc:



