

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

**IN THE MATTER OF:**

[REDACTED]

Reg No.: 2013-12449  
Issue No.: 1000, 1015, 3000  
Case No.: [REDACTED]  
Hearing Date: January 31, 2013  
Wayne County DHS (43)

**ADMINISTRATIVE LAW JUDGE:** Colleen M. Mamelka

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Thursday, January 31, 2013. The Claimant appeared, along with [REDACTED], and testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED] and [REDACTED].

**ISSUE**

Whether the Department properly supplemented cash assistance ("FIP") benefits pursuant to a Decision and Order mailed on October 10, 2012?

**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 October 3, 2012, a hearing was held regarding the denial of a FIP application.
2. On October 10, 2012, a Hearing Decision was mailed ordering the Department to initiate processing of the application and supplement for lost benefits.
3. The Department did not request Reconsideration or Rehearing of this Decision and Order.
4. The Department supplemented the Claimant's benefits effective December 2011 through July 31, 2012, and again starting up August 15, 2012.

5. During the time period at issue, the Claimant's group size fluctuated from 8 for November 2011 through June 2012, to 7 for July 2012.
6. On November 22, 2012, the Claimant requested a hearing regarding the FIP supplement.

### **CONCLUSIONS OF LAW**

As a preliminary matter, the Claimant's November 22<sup>nd</sup> Request for Hearing also sought review of the Claimant's food assistance ("FAP") benefits. During the hearing, the Claimant testified that all FAP issues were resolved. As such, there is no issue to adjudicate regarding FAP benefits, thus the Department's actions with respect to the FAP benefits are AFFIRMED.

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("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, Rules 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children ("ADC") program effective October 1, 1996.

The law provides that disposition may be made of a contested case by stipulation or agreed settlement. MCL 24.278(2).

In this case, the Claimant's October 7, 2011, application was originally denied due to the Claimant having reached the 60 months federal time limit. The denial was appealed resulting in a hearing held on October 3, 2012. A Decision and Order was mailed on October 10, 2012 ordering the Department to initiate processing of an October 7, 2011 FIP application. Importantly, this decision was not appealed therefore became a final decision. The Department initiated processing of the decision culminating with the supplementation of FIP benefits for the period of December 2011 through July 31, 2012. FIP benefits were continued as of August 15, 2012.

During the hearing, the Department agreed that pursuant to the final Decision and Order, that the Claimant was entitled to benefits for the month of November 1, 2011 and for the first two weeks of August 2012. As such, the Department agreed to initiate processing for November 2011 and the first two weeks of August 2012.

In reviewing the FIP supplement for the period of December 2011 through July 2012, the Claimant group size fluctuated based on an 18 year old child graduating from high school in June 2012. Pursuant to policy in effect throughout the time period at issue, a

dependent includes a child age 18 provided s/he attends high school full-time. BEM 245 (October 2011), p. 1. Based on Exhibit 1, the Claimant's group size for November through June 2012 was 8. The child that turned age 18 in January was a full-time high school student therefore properly included in the FIP group. This child graduated in June and, thus, was no longer a FIP group member effective July 2012. As such, in July 2012, the Claimant's group size was 7.

In this case, the Department determined the Claimant's group size was 7 for December through February 2012 and 6 through July 2012. As noted above, the child that turned age 18 in January 2012 should not be removed from the group until July 2012, the month after he graduated from high school. In light of the incorrect group size being used when the Department determined the Claimant's FIP supplement, the Department's actions are not upheld.

### **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, finds the Department's FIP supplement was not correct.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall, as agreed, initiate the calculation of the Claimant's FIP benefits for the months of November 2011 and the first two weeks of August 2012 in accordance with the Hearing Decision mailed on October 10, 2012, which was not appealed, and supplement for lost benefits that the Claimant was entitled to receive if otherwise eligible and qualified, in accordance with Department policy.
2. The Department shall initiate re-calculation of the Claimant's FIP supplement for the period from December 2011 through July 2012 to include to proper group size, and supplement the Claimant for lost benefits that the group was entitled to receive if otherwise eligible and qualified, in accordance with Department policy.
3. The Department's FAP determination is AFFIRMED.



**Colleen M. Mamelka**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: February 8, 2013

Date Mailed: February 8, 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 effect 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

CMM/tm

cc:

