

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

IN THE MATTER OF:



Reg. No.: 201336925
Issue No.: 1015, 3002
Case No.: [REDACTED]
Hearing Date: April 22, 2013
County: Wayne County (#35)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted on Monday April 22, 2013 from Detroit, Michigan. Claimant appeared and testified. Participant on behalf of the Department of Human Services (Department) was [REDACTED] (Eligibility Specialist).

ISSUE

Whether the Department properly determined the Claimant's cash assistance (FIP) benefit amount?

Whether the Department properly terminated the Claimant's food assistance program (FAP) benefits?

FINDINGS OF FACT

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

1. The Claimant is an ongoing FIP and FAP recipient.
2. The Claimant was receiving direct court ordered child support that was counted as unearned income. (Exhibit 1)
3. As of March 6, 2013, the Claimant's child support payments are sent directly to the Department as certified support.

4. The Department system incorrectly continues to count the child support payments sent to the Department as unearned income for the Claimant. As a result the Claimant's FIP allotment is incorrect.
5. On March 13, 2013, the Department received the Claimant's written hearing request concerning the Department's action.
6. The Department is aware of the system error and requested a ticket to resolve the issue on March 21, 2013, but as of the date of hearing has not resolved the matter.

CONCLUSIONS OF LAW

The Department of Human Services (DHS) policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Reference Tables Manual (RFT), and the State Emergency Relief Manual (ERM).

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 1999 AC, Rule 400.3101 through Rule 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 1999 AC, Rule 400.3001 through Rule 400.3015.

In the present case, the Department is aware of the system error resulting in an inaccurate FIP allotment for the Claimant. The Department does not dispute that Claimant's child support payments are being sent to the Department and should not be counted as unearned income to the Claimant. Claimant testified credibly that the last child support payment she received directly was on February 6, 2013, in the amount of \$210.86. The Department submitted a ticket to resolve the system error On March 21, 2013, but as of the date of hearing the issue has not been resolved. In regards to the FAP issue, there was no documentary evidence or testimony at hearing, nor was the issue addressed in the Department's hearing summary. Therefore, the record is insufficient to determine whether the Department acted properly in regards to Claimant's FAP benefits.

Accordingly, the Department did not establish that it properly determined the Claimant's FIP allotment; or terminated her FAP benefits.

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 establish that Claimant's FIP allotment accurate; and it acted properly in the closure of Claimant's FAP benefits.

Accordingly, the Department's FIP and FAP determination is hereby, **REVERSED**.

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 reinstate the Claimant's FAP benefits to the effective date of closure; and issue a supplement for lost FAP benefits (if any), that Claimant's was otherwise eligible and qualified to receive in accordance with policy.
2. The Department shall determine the Claimant's FIP allotment, in accordance with policy, back to the date when the system error occurred; regarding the child support payments; and issue the Claimant a supplement for any lost FIP benefits that she was otherwise eligible and qualified to receive.

M. Howie

Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/29/2013

Date Mailed: 4/29/2013

NOTICE: 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.

MH/hw

cc:



