

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 2013-46316
Issue No.: 1015; 3014; 6043
Case No.: [REDACTED]
Hearing Date: June 6, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 June 6, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], FIS.

ISSUES

Did the Department properly close Claimant's case for the Food Assistance Program (FAP)?

Did the Department properly calculate Claimant's Family Independence Program (FIP) benefits?

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 received benefits for FIP and FAP.
2. On April 24, 2013, the Department sent Claimant a notice of closure of her FAP case, effective May 1, 2013, due to family group composition.
3. On May 6, 2013, Claimant filed a hearing request, protesting the Department's actions regarding the Family Independence Program (FIP), Food Assistance Program (FAP) Child Development and Care (CDC) and Child Support.

4. On May 15, 2013, the Department sent Claimant notice of her FIP case being closed, effective June 1, 2013.
5. At the hearing, Claimant stated she no longer requested a hearing regarding CDC and Child Support.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (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 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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

In the present case, Claimant filed a hearing request, protesting the Department's actions regarding the Family Independence Program (FIP), Food Assistance Program (FAP) Child Development and Care (CDC) and Child Support.

During the hearing, Claimant stated she no longer requested a hearing regarding CDC and Child Support.

With respect to FIP, Claimant requested a hearing prior to a Notice of Case Action closing her FIP case, so the closure issue was not properly before this Administrative Law Judge. See R. 400.903 (1):

An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable

promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance. [R 400.903(1).]

Although Claimant's May 6, 2013 hearing request regarding FIP was not ripe for hearing with respect to the May 15, 2013 notice of closure effective June 1, 2013, Claimant's request regarding her FIP benefits amount was timely. Without testimony or documentation being admitted from the Department regarding the FIP benefits amount, it cannot be concluded that the Department correctly calculated Claimant's FIP benefits. It is therefore appropriate that the Department recalculate Claimant's FIP benefits for the months of April 2013 and May 2013.

With respect to FAP, the Department closed Claimant's FAP case on May 1, 2013 because Claimant was under 22 and living with her parents.

BEM 212 instructs:

Parents and their children **under** 22 years of age who live together **must** be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group.

....

Living with means sharing a home where family members usually sleep and share **any** common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share **only** an access area such as an entrance or hallway or non-living area such as a laundry room are **not** considered living together.

BEM 212, pp. 1, 2

In the present case, Claimant did not deny that she is under 22 years of age. In addition, Claimant testified that she uses the same kitchen and living room as her parents, although her bedroom is separate from her parents' and her parents use a different bathroom. Under these facts, it is logical to conclude that Claimant lives with her parents, and therefore the Department was correct in closing Claimant's FAP case.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly closed Claimant's case for FAP case, but improperly calculated Claimant's FIP benefits for the months of April 2013 and May 2013.

DECISION AND ORDER

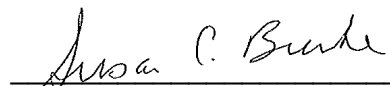
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted properly with respect to FAP, but did not act properly with respect to FIP.

Accordingly, the Department's FAP decision is AFFIRMED, and the Department's FIP decision is REVERSED for the reasons stated within the record.

THE DEPARTMENT SHALL BEGIN TO INITIATE THE FOLLOWING STEPS WITHIN TEN DAYS OF THE MAILING OF THIS ORDER:

1. Initiate recalculation of Claimant's FIP benefits for the months of April 2013 and May 2013.
2. Issue FIP supplements for any increased FIP payment, in accordance with Department policy.

It is further ORDERED that Claimant's hearing requests regarding CDC and Child Support are DISMISSED pursuant to Claimant's request at the hearing and R 400.903.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 10, 2013

Date Mailed: June 11, 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 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

SCB/tm

cc:

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