

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201348240
Issue No.: 1021; 3002
Case No.: [REDACTED]
Hearing Date: July 18, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 July 18, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant's [REDACTED] [REDACTED] and her Authorized Hearing Representative (AHR) [REDACTED]. Participants on behalf of Department of Human Services (Department) included Family Independence Manager, [REDACTED].

ISSUE

Did the Department properly determine the Claimant's benefit period for Family Independence Program (FIP) benefits and properly reduce the Claimant's monthly Food Assistance Program (FAP) 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. The Claimant was an ongoing recipient of monthly FAP benefits in the amount of \$ [REDACTED].
2. On May 6, 2013, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that she had been approved for FIP benefits in the monthly amount of \$ [REDACTED] and that her monthly FAP benefits had been reduced to \$ [REDACTED] as her monthly unearned income amount had changed.

3. On May 16, 2013, the Department received the Claimant's AHR's written hearing request protesting the reduction in FAP and protesting that the FIP benefit was not granted until May 1, 2103.
4. A Hearing was scheduled for June 25, 2013.
5. On June 26, 2013, the Administrative Law Judge signed an Order of Adjournment for Interpreter Services. A new Notice of Hearing was sent on June 28, 2013, scheduling the instant hearing.

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 Mich Admin Code, R 400.3101 through R 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 Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, 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, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 ACS, R 400.3151 through R 400.3180.

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 Mich Admin Code, R 400.5001 through R 400.5015.

In this case, the testimony of the Claimant's AHR was that the Claimant should be entitled to FIP retroactive to the application date of March 5, 2013. There was no evidence from the Claimant's side regarding the reduction in the FAP allotment due to the increase in unearned income.

Bridges Eligibility Manual (BEM) 229 (2013) p. 1, provides that completion of the 21 day PATH application eligibility period (AEP) part of orientation which is an eligibility requirement for approval of the FIP application. PATH participants must complete all of the following in order for their FIP application to be approved:

- Begin the AEP by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice.
- Complete PATH AEP requirements.
- Continue to participate in PATH after completion of the 21 day AEP.

In this case, the uncontested evidence is that the AEP was not completed until April 26, 2013. That would be the date that the Claimant's first became eligible for FIP. However, the Department testimony was that a completion date of April 26, 2013 would mean that the Claimant is eligible for FIP from April 16, 2013 until April 30, 2013. The Department testimony was that a supplement would have been issued to the Claimant already, but for that the Department has been unable to effectuate one and has requested a ticket on the issue. Bridges Administrative Manual (BAM) 115 (2013) p. 20, provides that, if the application becomes 30 days old and the eligibility requirements have not been met FIP assistance begins in the first pay period when the eligibility requirements have been met. As such, the Department has properly conceded the Claimant was eligible for FIP benefits from April 16, 2013 until April 30, 2013.

BEM 550 (2012) p. 1, instructs Department case workers to budget the entire amount of earned and unearned income in a FAP budget. BEM 503 (2013) pp.11, 12, defines FIP as countable, unearned income for FAP purposes. Therefore, the Administrative Law Judge determines that when the Department took action to reduce the Claimant's monthly FAP allotment due to the Claimant receiving FIP benefits, that action was in accordance with Departmental policy. As the Department concedes that the Claimant is due a supplement of FIP for the last half of April, the Administrative Law Judge determines that the evidence is insufficient to establish that the Department acted in accordance with its policy when first issuing FIP benefits on May 1, 2013.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds that the Department did act properly when reducing the Claimant's monthly FAP allotment. did not act properly when.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is **AFFIRMED** REVERSED.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds that the Department did act properly. did not act properly when determining that the Claimant was not eligible for FIP until May 1, 2013.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is **AFFIRMED** REVERSED.

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

1. Initiate action to issue the Claimant a supplement of FIP benefits for the time period between April 16, 2013 and April 30, 2013.

/s/ _____
Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/19/13

Date Mailed: 7/22/13

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

SEH/tb

cc:

