

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201349058
Issue Nos.: 1018, 3008
Case No.: [REDACTED]
Hearing Date: June 26, 2013
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 26, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

1. Did the Department properly deny Claimant's application for Family Independence Program (FIP) benefits?
2. Did the Department properly issue Claimant's Food Assistance Program (FAP) for April 2013 and May 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 April 17, 2013, Claimant applied for FIP benefits after going on short-term disability from her employment.
2. In connection with the reported change in employment, the Department requested verifications from Claimant.
3. On May 15, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied because of excess income and her FAP case would close effective June 1, 2013, because she had failed to verify requested information.

4. On May 23, 2013, Claimant filed a request for hearing, disputing the Department's action.

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), and Department of Human Services 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.

Additionally, in its May 15, 2013, Notice of Case Action, the Department denied Claimant's April 17, 2013, FIP application because her income exceeded the FIP income limit and closed her FAP case effective June 1, 2013, because she had failed to provide requested verifications.

Denial of FIP Application

In order to receive FIP benefits, a client must establish that financial need exists. BEM 518. Financial need is established, in part, when an applicant passes the Qualifying Deficit Test. A client passes the Qualifying Deficit Test if the certified group's budgetable income (after applying the qualifying earned income disregard) for the income month is *less* than the certified group's payment standard for the application month. BEM 515 (December 1, 2011), p. 1; BEM 518 (July 1, 2012), p. 1.

The payment standard is dependent on the FIP group size. The Department testified it concluded that Claimant's FIP group was composed of three members: Claimant, her living-together-partner (LTP), and the couple's child, [REDACTED]. The FIP monthly assistance payment standard for a group size of three is \$492. RFT 210 (January 1, 2009). The Department excluded [REDACTED] Claimant's son, and [REDACTED] the LTP's daughter, from the FIP group. Based on Claimant's testimony that [REDACTED] did not sleep in Claimant's home more than half of the days in a month, the Department properly excluded those two children from the FIP group. See BEM 210 (January 1, 2013), pp. 2, 7, 11.

At the hearing, the Department presented a FIP Income Test showing its calculation of Claimant's FIP income eligibility. The Income Test showed earned income of \$252, which the Department testified was Claimant's employment income. However, Claimant credibly testified (i) that she applied for FIP on April 17, 2013, after she went on temporary disability leave from her employment on March 26, 2013, (ii) that her leave continued until May 19, 2013, and (iii) that she did not receive any employment income while she was on leave. Thus, Claimant did not have any income at the time of her application. Furthermore, the Department was required to consider the first two months in which the group could be eligible for an assistance payment, and if the client was ineligible the first month due to excess income but a change was expected for the next benefit month, the Department was required to process the second month's benefit determination and could not deny the application if the client was income eligible. BEM 518, pp. 2-3. Based on the evidence presented at the hearing, the Department improperly considered Claimant's employment income in calculating Claimant's FIP eligibility at the time of her application.

The Department also testified that it consider the LTP's biweekly unemployment payments of \$646 in determining the group's unearned income. At the hearing, however, Claimant testified that the LTP's unemployment compensation had decreased to \$506 during the period at issue and she had advised the Department of this decrease. Although the Department testified that it relied on the information in the consolidated inquiry in calculating the unemployment income, it did not provide a copy of this document at the hearing. Further, the Department did not have the file to review whether Claimant provided documentation concerning the decrease in benefits if this decrease was not evidenced in the consolidated inquiry. Thus, the Department did not satisfy its burden of showing that it properly calculated the group's unearned income.

The calculation of the group's budgetable income also requires a deduction for the amount of court-ordered support payments, including arrearages, expected to be paid by the program group from the group's total countable income. BEM 518, p. 4. Claimant agreed that the LTP paid out \$279.08 monthly in child support for a child not in the home, as indicated on the income test budget, but pointed out that the support was not deducted from the group's income. Thus, the Department did not act in accordance with Department policy when it failed to deduct this amount.

Because of the foregoing issues, the Department did not act in accordance with Department policy in calculating the group's countable income and determining Claimant's FIP eligibility.

Closure of FAP Case

Even though the May 15, 2013, Notice of Case Action notified Claimant that her FAP case would close effective June 1, 2013, for failure to provide requested verifications, at the hearing, the Department testified that Claimant's FAP case was reinstated on June 17, 2013, when she provided the requested verifications on June 10, 2013, and that there was no interruption in Claimant's FAP benefits. Claimant acknowledged that she had received delayed but ongoing and uninterrupted FAP benefits. Thus, the issue that resulted in her hearing request was resolved. However, she testified at the hearing that

she was concerned about the amount of her FAP benefits for April 2013 and May 2013 because they did not take into account her reported loss of income.

When she filed her FIP application on April 17, 2013, Claimant notified the Department of her temporary loss of employment. Department policy provides that income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided that necessary verification was returned by the due date. BEM 505 (October 1, 2010), pp. 8-9. If the verification is returned late but before case closure, the Department must act within 10 days from the date the verification is returned and the FAP increase must take affect no later than the first allotment issued 10 days after the date the verification was returned. BEM 505, p. 9. Because Claimant delayed reporting her employment change until April 17, 2013, the earliest her FAP benefits would be affected was May 2013. Because the May 2013 benefits were the same as those issued in April 2013, it does not appear that the Department recalculated Claimant's May 2013 FAP benefits based on the reported change in income. Thus, the Department did not act in accordance with Department policy with respect to the calculation of Claimant's May 2013 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 act in accordance with Department policy when it denied Claimant's FIP application and when it calculated Claimant's May 2013 FAP benefits.

Accordingly, the Department's decision is REVERSED.

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

1. Reregister Claimant's April 17, 2013, FIP application;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements to Claimant for FIP benefits she was eligible to receive but did not from April 17, 2013, ongoing;
4. Begin recalculating Claimant's FAP budget for May 2013 in accordance with Department policy;
5. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not for May 2013; and
6. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 2, 2013

Date Mailed: July 3, 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

ACE/pf

cc:

