

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 2013-51190
Issue No.: 1021; 3003
Case No.: ██████████
Hearing Date: July 1, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (Department or DHS) on May 30, 2013. After due notice, a telephone hearing was held on July 1, 2013, from Detroit, Michigan. Participants on behalf of the Claimant included Claimant. Participants on behalf of the Department included ██████████ Family Independence Specialist.

ISSUES

Whether the Department properly determined that Claimant has exceeded the lifetime limit on Family Independence Program (FIP) benefits and was not eligible for an exception to the time limit?

Whether the Department properly calculated Claimant's Food Assistance Program (FAP) benefits for May of 2013, ongoing?

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 was an ongoing recipient of FIP and FAP benefits.
2. In May of 2013, Claimant received \$517 in FAP benefits. Exhibit 2.
3. On May 21, 2013, the Department notified Claimant that his FIP case would close effective July 1, 2013, ongoing, because his spouse had exceeded the 60-

month federal lifetime limit on receipt of FIP assistance as of May 1, 2013. Exhibit 1.

4. On May 30, 2013, the Department received the Claimant's Request for Hearing, disputing (i) the closure of his FIP benefits and (ii) the computation of his FAP benefits. Exhibit 1.

CONCLUSIONS OF LAW

As a preliminary matter, Claimant's requested that his hearing be in-person. See Exhibit 1. However, the hearing was scheduled for a telephone hearing. See Exhibit 1. Claimant testified that he wanted to proceed with the telephone hearing. Thus, the hearing proceeded as scheduled.

FIP benefits

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 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. 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 FIP benefit program is not an entitlement. BEM 234 (January 1, 2013), p 1. Under the federal FIP time limit, individuals are not eligible for continued FIP benefits once they receive a cumulative total of 60 months of FIP benefits, unless the individual was approved for FIP benefits as of January 9, 2013 **and** was exempt from participation in the Partnership.Accountability.Training.Hope (PATH) program for domestic violence, establishing incapacity, incapacitated more than 90 days, aged 65 or older, caring for a spouse or child with disabilities. BEM 234 (January 1, 2013), p 1; MCL 400.57a (4); Bridges Federal Time Limit Interim Bulletin (BPB) 2013-006 (March 1, 2013), p 1. The federal limit count begins October 1996. BEM 234, p 1.

In this case, it was not disputed that Claimant was disabled and received Supplemental Security Income (SSI). See Exhibit 2. Moreover, Claimant agreed that as of January 9, 2013, his spouse was caring for him because he was disabled. Additionally, Claimant also agreed that his spouse was participating in the PATH program at the same time she was caring for him. The Department testified that Claimant's spouse was not deferred from the PATH program as of January 9, 2013, ongoing, to take care of the Claimant.

At the hearing, the Department presented as evidence Claimant's Michigan FIP Time Limit document. Exhibit 1. This document did indicate that as of January 9, 2013, ongoing, Claimant's spouse was caring for him, but also indicated that she was a

mandatory participant in the PATH program. See Exhibit 1. Also, the Department presented as evidence Claimant's Federal TANF Time Limit. Exhibit 1. This document showed that Claimant's spouse had received a cumulative total of 60 months or more of FIP benefits. Exhibit 1.

Based on the foregoing evidence and testimony, the Department properly closed Claimant's FIP benefits. The evidence showed that Claimant's spouse was fully participating in the PATH program while taking care of her disabled spouse as of January 9, 2013, ongoing. The Department also presented evidence that Claimant's spouse had met the cumulative total of 60 months of FIP benefits. Claimant's spouse was not deferred from the FIP program to take care of the Claimant. Claimant is not eligible for FIP benefits because his wife had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of May 1, 2013. Thus, the Department acted in accordance with Department policy when it closed Claimant's FIP benefits effective July 1, 2013, ongoing, because his spouse had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of May 1, 2013.

FAP benefits

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 Rule 400.3001 through Rule 400.3015.

At the hearing, Claimant testified that he was disputing his FAP allotment for May 2013, ongoing. Claimant testified that he was not disputing his FAP benefits before April of 2013. Thus, the hearing continued with reviewing Claimant's FAP benefits for May 2013, ongoing.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (October 2010), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department uses actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. BEM 505, p. 2. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 6. Also, the Department counts the gross amount of current SSA-issued SSI as unearned income. BEM 503 (May 2013), p. 24.

In May of 2013, Claimant received \$517 in FAP benefits. Exhibit 2. At the hearing, the FAP budget for the benefit period of May 2013 was reviewed. See Exhibit 2. It was not

disputed that the certified group size was six. The Department calculated Claimant's spouse earned gross income to be \$1,248. It was not disputed that Claimant's gross unearned income from SSI was \$710. Claimant, though, testified that his spouse only earned a gross income of \$803.

The Department testified that Claimant's spouse worked 30 hours a week and earned \$7.40/hr. The Department testified that Claimant earned \$222 a week (30 hours a week times \$7.40/hr.). The Department then converted the weekly pay amount to a standard monthly amount by multiplying the weekly income by 4.3, which resulted in a standard monthly amount of \$954 (\$222 weekly pay times 4.3). BEM 505, p. 6. The Department also presented Claimant's Employment Budget – Summary, which indicated Claimant's budget amount for May of 2013 was \$954. See Exhibit 2. However, a review of the May 2013 FAP budget indicates a gross earned income of \$1,248. See Exhibit 2. This amount is different from the \$954 that the Department calculated. Moreover, the FAP budget indicates a child support deduction. However, the Department testified that Claimant did not have a child support deduction. Claimant also agreed that he did not have a child support deduction.

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (February 2013), p. 28. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600, p. 28. Both the local office and the client or authorized hearing representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 28. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 30.

Based on the foregoing information and evidence, the Department was unable to provide testimony or evidence on how the Department calculated the spouse's gross earned income. The amount that the Department calculated was different from what the FAP budget indicated. See Exhibit 2. Moreover, the FAP budget shows a child support deduction, which both the Department and Claimant testified that there is no such deduction. See Exhibit 2. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy on how it processed Claimant's FAP benefits for May of 2013, ongoing. BAM 600, pp. 28-30.

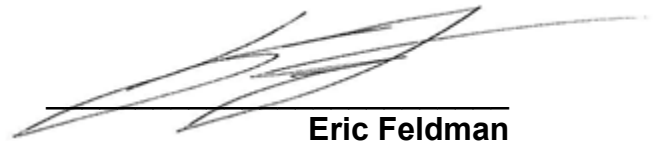
DECISION AND ORDER

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 (i) properly closed Claimant's FIP benefits effective July 1, 2013, ongoing, for reaching the 60-month federal time limit and (ii) improperly calculated Claimant's FAP budget effective May of 2013, ongoing.

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

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

1. Begin recalculating the FAP budget effective May of 2013, ongoing, in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not for May of 2013; and
3. Notify Claimant of its FAP decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 9, 2013

Date Mailed: July 9, 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 affect the substantial rights of the claimant:
 - failure of the ALJ to address other relevant issues in the hearing decision.

2013-51190/EJF

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

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]