

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-52254
Issue Nos.: 1015, 1080, 4011
Case No.: [REDACTED]
Hearing Date: August 14, 2013
County: Wayne (82-76)

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 August 14, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUES

1. Did the Department properly close Claimant's Family Independence Program (FIP) and State Disability Assistance (SDA) cases?
2. Did the Department properly send Claimant a June 3, 2013, Notice of Balance Due and seek repayment of overissued cash benefits?
3. Did the Department properly calculate Claimant's FIP benefits for July 16, 2012, 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 has a minor child who was receiving federal Supplement Security Insurance (SSI) benefits.

2. On July 2, 2012, the Department approved Claimant for SDA benefits of \$100 for the period of July 16, 2012, to July 31, 2012, and \$200 monthly for August 1, 2013, ongoing, with Claimant as the sole group member.
3. In November 2012, Claimant's daughter's SSI case closed.
4. On December 14, 2012, the Department denied Claimant's application for FIP but notified her that she would continue to receive SDA benefits for January 1, 2013, ongoing.
5. The Department never requested medical documentation from Claimant prior to June 2013.
6. On May 14, 2013, the Department sent Claimant a Notice of Case Action notifying her that (1) she was approved for FIP benefits between January 1, 2013, and May 31, 2013, of \$158 monthly with her child as the sole group member, and (2) her SDA case closed effective June 1, 2013, because Claimant did not meet program requirements.
7. On May 14, 2013, the Department issued FIP supplements to Claimant for \$158 for the months from January 1, 2013, through May 31, 2013, with Claimant identified as an excluded adult and the child an eligible child.
8. On June 10, 2013, the Department issued FIP supplements to Claimant for \$158 for the months of November 2012 and December 2012 and \$144 for the months of August 2012 and October 2012 with Claimant identified as an excluded adult and the child an eligible child.
9. On June 3, 2013, the Department sent Claimant a Notice of Balance Due notifying her that she was required to pay a balance of \$1,525 she owed under the cash program for an overissuance that she had not repaid while the program was active.
10. On June 5, 2013, Claimant requested a hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), and the 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 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 AACRS, R 400.3151 through R 400.3180.

Additionally, Claimant applied for cash assistance on July 2, 2012. The Department approved Claimant's application for monthly \$200 SDA benefits beginning July 16, 2012, but never requested documentation from Claimant to establish a disability. The Department subsequently issued supplements to Claimant for monthly FIP benefits of \$144 for August 2012 and October 2012 and \$158 for November 2012 through May 2013. The Department closed Claimant's SDA and FIP cases effective May 31, 2013. On June 3, 2013, the Department sent Claimant a Notice of Balance Due notifying her that she owed the Department \$1,525 for overissued cash benefits that were not repaid while she received cash benefits. On June 5, 2013, Claimant requested a hearing concerning her FIP and SDA benefits.

Several issues arose from Claimant's case: (1) the closure of Claimant's cash assistance cases; (2) the validity of the June 3, 2013, Notice of Balance Due sent to Claimant; and (3) the amount of FIP benefit issuances and concurrent receipt of FIP and SDA benefits.

Closure of SDA and FIP Cases

On May 14, 2013, the Department sent Claimant a Notice of Case Action notifying her that she was approved for monthly FIP benefits of \$158 for January 1, 2013 to May 31, 2013, and her SDA case would close effective June 1, 2013, because she did not meet program requirements.

A person is eligible for SDA if disabled, caring for a disabled person or age 65 or older. BEM 261 (January 2012), p. 1. In this case, the Department testified that Claimant had not completed a medical packet for a disability determination by the Medical Review Team (MRT). Claimant, who testified that she had never been asked to provide any medical documentation prior to her June 2013 application, acknowledged that she had never completed a medical packet. Because Claimant's daughter no longer received SSI as of November 2012, she was not a disabled person and Claimant could not rely on caring for her child as the basis for receipt of SDA benefits. Thus, the Department acted in accordance with Department policy when it closed Claimant's SDA case because she lacked eligibility.

The Notice of Case Action, while providing that Claimant was approved for FIP benefits between January 2013 and May 2013, does not identify the reason the benefits did not continue after May 2013. At the hearing, the Department testified that Claimant was not

eligible for continued FIP benefits because she had received FIP in excess of the time limit for receipt of such benefits.

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, or 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.

In this case, the Department presented an eligibility summary showing that Claimant had received 71 months of FIP as of May 31, 2013. However, before closing a client's case, the Department must provide timely notice of its actions. BAM 220 (July 2013), pp. 1-4. In this case, there was no evidence that the Department notified Claimant that her FIP eligibility ended because she exceeded the federal time limit for receipt of FIP benefits. Thus, the Department failed its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP case.

Validity of Notice of Balance Due

On June 3, 2013, the Department sent Claimant a Notice of Balance Due informing her that she still owed the State for overissuances to her cash program that were not repaid while the program was active. The Department presented evidence that the overissuances concerned cash benefits issued to Claimant between August 1, 2007, and December 31, 2007.

To recover overissued benefits from active programs, the Department must notify a client of a client error or Department error by sending a Notice of Overissuance (DHS-4358A), Agency and Client Error Repayment Agreement (DHS-4358), Overissuance Summary (DHS-4358C), and Hearing Request for Overissuance or Recoupment Action (DHS-4358D). BAM 705 (February 2013), p. 8; BAM 715 (February 2013), p. 7. To recover overissued benefits from inactive programs, the Department must request a debt collection hearing for a decision to determine the existence and collectability of a debt to the Department and notify the client of the hearing. BAM 725 (August 2012), p. 13; BAM 715, p. 9; BAM 705, p. 9. A client can also sign a repayment agreement acknowledging the debt. BAM 725, p. 14.

In this case, the Department did not present any evidence to establish how the overissuance was calculated or that Claimant had been previously notified of the overissuance. Claimant denied ever receiving any notice of an overissuance. Furthermore, there was no overissuance recouped from Claimant's FIP or SDA benefits while those programs were active, contrary to the implication in the Notice that Claimant had an active administrative recoupment action against her. In the absence of any evidence by the Department showing that Claimant was notified of the overissuance or

signed a repay agreement, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it issued the Notice of Balance Due and demanded payment of any alleged overissuance.

Calculation of FIP Benefits and Concurrent Issuance of FIP and SDA Benefits

During the course of the hearing, the Department testified that Claimant had been issued concurrent FIP and SDA benefits from July 16, 2012, through May 31, 2013, except for September 2012 when she received only SDA benefits. While the Department stated that Claimant was improperly issued both FIP and SDA during the same months, the Department had not taken any action with respect to remedying the situation as of the hearing date. Therefore, it appeared that Claimant was not an aggrieved party with respect to this matter. See Mich Admin Code R 400.903(1). However, upon further consideration of this issue and review of the record, it appears that the Department may have *underissued* FIP benefits to Claimant during the period at issue which Claimant was entitled to receive. See BAM 405 (November 2012), p. 1. Therefore, Claimant is aggrieved by a Department action and the facts in this case warrant a review of her FIP issuances.

The Department's testimony established that from July 16, 2013, through October 31, 2013, Claimant's daughter received SSI. Therefore, she was not an eligible FIP certified group member. See BEM 210 (January 2013), pp. 6-7. Because Claimant did not receive SSI during this period and lived with the child, she was an eligible grantee of the FIP group. As an eligible grantee of her FIP group, Claimant was eligible to receive monthly FIP benefits of up to \$306. RFT 210 (January 2009), p. 1. The Benefits Summary Inquiry shows that Claimant's FIP group size during these months was one and Claimant's status was an excluded adult. Claimant was only issued \$144 for August 2012 and October 2012 based on a payment standard of \$158 and nothing for July 16, 2012 to July 31, 2012 or September 2012. Thus, the Department did not act in accordance with Department policy when it calculated Claimant's FIP benefits for the period between July 16, 2012, and October 31, 2012.

Claimant's daughter's SSI case closed in November 2012, and at that time, the child became an eligible FIP group member and Claimant's FIP certified group size increased to two. BEM 210, pp. 6-7, 11. However, the Department's evidence continues to show that Claimant's FIP group size was one, with Claimant identified as the excluded adult, and the group receiving a FIP monthly issuance of \$158, the maximum available to a group size of one with an ineligible grantee, from November 1, 2012, to May 31, 2013. See RFT 210, p. 1. A FIP group of two members and an eligible grantee is eligible for monthly FIP benefits of up to \$403. The Department acknowledged in its hearing summary that Claimant was eligible for FIP benefits for a group size of two once her daughter's SSI benefits terminated. Because Claimant's FIP group size was not increased for the period between November 2012 and May 31, 2013, and Claimant continued to be identified as an excluded adult, the Department did not act in accordance with Department policy when it issued FIP benefits to Claimant for that period.

It is noted that any FIP supplements Claimant is eligible to receive to correct any underissuances for the period between July 16, 2012, and May 31, 2013, may be offset by any SDA overissuances Claimant received. BAM 405 (November 2012), p. 1.

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 in accordance with Department policy when it closed Claimant's SDA case but did not act in accordance with Department policy when it (1) closed Claimant's FIP case, and (2) calculated Claimant's FIP benefits for the period between July 16, 2012, and May 31, 2013. Furthermore, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it issued a Notice of Balance Due and sought repayment of an alleged cash overissuance.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to closure of Claimant's SDA case AND REVERSED IN PART with respect to closure of Claimant's FIP case, calculation of Claimant's FIP benefits from July 16, 2012, ongoing, and issuance of the Notice of Balance Due to Claimant.

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

1. Remove from Claimant's record the Notice of Balance Due seeking repayment of overissued cash benefits for the period between August 1, 2007, and December 31, 2007;
2. Reinstate Claimant's FIP case effective June 1, 2013;
3. Begin recalculating Claimant's FIP benefits from July 16, 2012, ongoing in accordance with Department policy and consistent with this Hearing Decision;
4. Begin issuing supplements, in accordance with Department policy, to Claimant for any FIP benefits she was eligible to receive but did not from July 16, 2012, ongoing; and
5. Notify Claimant in writing of its decision concerning corrected benefits in accordance with Department policy.



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

Date Signed: August 22, 2013

Date Mailed: August 22, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

