

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

IN THE MATTER OF:

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

Reg. No.: 2013-52930
Issue No.: 1000;3002
Case No.: ██████████
Hearing Date: August 15, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 conducted on August 15, 2013 from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████, JET/PATH Worker.

ISSUE

Did the Department properly calculate the amount of Claimant's Food Assistance Program (FAP) benefits and process her Family Independence Program (FIP) case?

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 FAP and FIP benefits.
2. On June 7, 2013, the Department sent Claimant a Notice of Case Action informing her that she was approved for FAP benefits in the amount of \$63.00 effective July 1, 2013. (Exhibit 1).
3. Claimant did not agree with the Department's calculation of her FAP benefits.

4. On June 7, 2013, Claimant filed a hearing request disputing the Department's actions.

CONCLUSIONS OF LAW

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

FIP

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 hearing was requested to dispute the Department's action taken with respect to Claimant's FIP benefits. Shortly after commencement of the hearing, Claimant testified that she now understood and was satisfied with the actions taken by the Department and did not wish to proceed with the hearing regarding her FIP benefits. Claimant stated that her FIP case was reinstated and that there was no longer any issue that needed to be resolved with respect to the FIP. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request.

FAP

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. Rule 400.3001 through Rule 400.3015.

Additionally, on June 7, 2013, the Department sent Claimant a Notice of Case Action informing her that she was approved for FAP benefits in the amount of \$63.00 effective July 1, 2013. (Exhibit 2). Claimant disputed this amount.

At the hearing, the budget summary from the Notice of Case Action was reviewed. (Exhibit 1). All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2013), pp. 1 – 3. The Department concluded that Claimant had unearned income of \$1,658.00 which came from unemployment compensation and FIP benefits that she receives for the care of the children for whom she is the guardian. The Department presented an unemployment compensation search which established that

Claimant receives \$644.00 in bi-weekly unemployment benefits. (Exhibit 3). Claimant also confirmed this amount.

The Department concluded that Claimant received \$274.00 in monthly FIP benefits for the care of the children for whom she is a guardian. FIP benefits are considered the unearned income of the FIP head of household. The Department will count this amount as unearned income. BEM 503, p. 11. Claimant confirmed that she receives FIP benefits in the amount of \$274.00 monthly. Therefore, the Department properly determined that Claimant's total unearned income was \$1,658.00.

The budget shows that the Department properly applied the \$148.00 standard deduction applicable to Claimant's confirmed group size of three and that the \$575.00 standard heat and utility deduction available to all FAP recipients was properly applied. (Exhibit 2); RFT 255 (October 2012), p 1; BEM 554 (October 2012), pp. 11-12. The Department did not consider any housing costs for Claimant, and testified that there was no record of any housing costs in Claimant's file. (Exhibit 2). Claimant testified, however, that she pays \$750.00 in rent. Claimant credibly stated that she submitted a copy of her lease with her application in October 2012 and that she had provided her previous worker with an additional two copies of her lease on other occasions.

Because of the Department's failure to consider Claimant's housing costs, the Department did not satisfy its burden in establishing that it properly calculated Claimant's FAP benefits. Accordingly, the Department's FAP decision is REVERSED.

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 Claimant's hearing request with respect to FIP is DISMISSED.

It is further found that the Department did not act in accordance with Department policy when it calculated the amount of Claimant's monthly FAP benefits effective July 1, 2013. Accordingly, the Department's decision with respect to FAP REVERSED.

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

1. Begin recalculating Claimant's FAP budget for July 1, 2013 ongoing, in accordance with Department policy and consistent with this Hearing Decision; and

2. Begin issuing supplements to Claimant for any FAP benefits that she was eligible to receive but did not from July 1, 2013 ongoing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 23, 2013

Date Mailed: August 23, 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

ZB/cl

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