

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-54536
Issue Nos.: 1015, 3000
Case No.: [REDACTED]
Hearing Date: July 22, 2013
County: Wayne (82-19)

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 July 22, 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 issue Family Independence Program (FIP) benefits to Claimant for July 2012 through February 2013?
2. Did the Department properly close Claimant's FIP case effective February 28, 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. Claimant was an ongoing recipient of FIP and FAP benefits.
2. In connection with a redetermination, the Department became aware that it had been improperly budgeting employment income to Claimant resulting in an underissuance of FIP and FAP benefits.
3. On February 28, 2013, Claimant's FIP case closed.
4. On June 21, 2013, Claimant filed a request for hearing concerning her FIP and FAP cases, referencing the fact that income she had not earned had been included in her budget since July 2012.

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.

Although Claimant had requested a hearing concerning her FIP and FAP cases, at the hearing, Claimant testified that the Department had resolved her concerns regarding underissuances in her FAP benefits and that she was satisfied with the Department's actions and wished to dismiss her hearing request with respect to the FAP issue. The Department was in agreement with the dismissal of the hearing request concerning the FAP issue.

With respect to Claimant's FIP case, the parties' testimony established that the FIP issue concerned (i) underissuances in Claimant's FIP benefits between July 2012 and February 2013 and (ii) the closure of Claimant's FIP case effective February 28, 2013.

At the hearing, the Department acknowledged that, except for December 2012, it had improperly budgeted earned income from July 2012 through January 2013, issuing \$591 in FIP benefits to Claimant when she was actually due \$597. The Department testified that it had issued a supplement to Claimant for \$6 in monthly benefits due to Claimant for September 2012 and October 2012, but it was unable to supplement Claimant for the remaining monthly benefits she was due. Thus, the Department agreed that Claimant was due \$6 per month for underissuances in FIP benefits for July 2012, August 2012, November 2012, and January 2013. Claimant agreed to the amount of underissued benefits for those months.

With respect to February 2013, Claimant testified, and the Department acknowledged, that she was issued only \$376 for the month. The Department agreed that Claimant did not have any earned income that month and that she was underissued benefits but was unable to testify regarding the amount of FIP benefits Claimant should have received when the improperly budgeted employment income was removed. The Department did not present a budget showing the benefits Claimant actually received and the benefits

she was eligible to receive but did not. Thus, the Department was unable to satisfy its burden of showing that it properly calculated Claimant's FIP benefits for February 2013.

Claimant was also concerned because she did not receive any FIP benefits after February 2013. The Department testified that Claimant's FIP case closed because she had exceeded the 60-month federal FIP time limit for receipt of benefits. See 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. However, it provided no notice of case action showing that it advised Claimant of the closure of her FIP case and Claimant denied receiving any such notice. Claimant was entitled to notice of her case closure before it closed. See BAM 220 (November 2012), pp. 1-4, 8. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP case.

DECISION AND ORDER

With respect to Claimant's request for hearing concerning her FAP case, it is ORDERED that, pursuant to Claimant's withdrawal of the hearing request, the Request for Hearing concerning the FAP case is hereby **DISMISSED**.

With respect to Claimant's request for hearing concerning her FIP case, 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 failed to issue supplements to Claimant for underissued FIP benefits for July 2012, August 2012, November 2012, and January 2012, and did not satisfy its burden of showing that it acted in accordance with Department policy when it failed to calculate and issue FIP benefits due to Claimant for underissuances for February 2013 and when it closed Claimant's FIP case effective February 28, 2013.

Accordingly, the Department's FIP 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. Issue a supplement to Claimant totaling \$24 for underissued FIP benefits for the months of July 2012, August 2012, November 2012, and January 2013;
2. Begin recalculating Claimant's FIP budget for February 2013 to exclude Claimant's earned income;
3. Reinstate Claimant's FIP case effective March 1, 2013; and
4. Issue supplements to Claimant for FIP benefits she was eligible to receive but did not from February 1, 2013, ongoing.



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

Date Signed: July 24, 2013

Date Mailed: July 24, 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,
 - 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:

