

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 2013 56476
Issue No.: 1000
Case No.: [REDACTED]
Hearing Date: August 1, 2013
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 1, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] FIS.

ISSUE

Was the Claimant's hearing request regarding FIP benefit closure dated June 24, 2013 timely?

Did the Department properly calculate the Claimant's FAP benefits based upon Claimant's employment earnings of \$2601?

Did the Department properly

- ☐ deny Claimant's application for benefits
- ☒ close Claimant's benefits case
- ☐ reduce Claimant's benefits

for:

- ☒ the Family Independence Program (FIP). ☐ State Disability Assistance (SDA).
- ☐ the Food Assistance Program (FAP). ☐ Child Development and Care (CDC).
- ☐ Medical Assistance (MA). ☐ State Emergency Services (SER).
- ☐ Adult Medical Assistance (AMP).

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing recipient of FIP benefits.
2. The Department's Notice of Case Action to Claimant was dated January 31, 2013 and closed the Claimant's FIP case effective March 1, 2013. Exhibit 1
3. The Claimant was suspended without pay from her job on March 8, 2013 and returned to work on April 12, 2013. Claimant Exhibit 1. The Department received this letter on May 24, 2013, after the Claimant had returned to work.
4. The Claimant completed a Semi Annual Report indicating that she had no job. The Semi Annual Report was returned April 11, 2013.
5. The Semi Annual Report asks if gross monthly income has changed by more than \$100, if yes include current proof of earnings your household received for the past 30 days. If someone's job has ended in the past 6 months and it was not reported provide proof such as a statement from the previous employer.
6. The Claimant attached to the Semi Annual Report a notice of termination of employment offering COBRA for health benefits, as of March 13, 2013 and a termination document dated March 8, 2013 indicating Claimant had been terminated.
7. The Claimant did not report loss of employment within 10 days and did not provide proof of loss of employment until April 11, 2013 and resumption of employment until one month after employment had started again.
8. The Semi Annual Report was received by the Department one day before she resumed employment.
9. The Claimant requested a hearing on June 25, 2013 indicating she had lost her job and "then got my job back as of 4/13. I sent in all paperwork."

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the 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.

TIMELINESS OF HEARING REQUEST – FIP

Additionally, Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903 provides in relevant part:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance. [R 400.903(1).]

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Bridges Administrative Manual (BAM) 600 (month, year), p. 4, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In the present case, the Department sent Claimant a Notice of Case Action dated January 31, 2013 advising Claimant of its decision to close the Claimant's FIP case effective March 1, 2013. However, Claimant did not file a request for hearing to contest the Department's action until June 25, 2013. Claimant's hearing request was, therefore, not timely filed within ninety days of the Notice of Case Action and is, therefore, DISMISSED for lack of jurisdiction. Bridges Administrative Manual (BAM) 600, p 4.

FAP BENEFITS DURING MARCH AND APRIL AND MAY DUE TO TERMINATION OF EMPLOYMENT AND STARTING OF EMPLOYMENT

At the hearing the Claimant contended that because she gave notice to the Department on April 11, 2013 that she was terminated from her job and verified same she should have received an increase in FAP benefits to reflect the loss of income. The records provided in evidence in this case indicate that the Claimant resumed working as of April 12, 2013, however the Department did not have verification of that fact until May 24 2013 when a new hire employment verification was provided. Prior to the receipt of the new hire verification the Claimant advised the Department on April 16, 2013 when she had her semi-annual review that she had resumed working April 12, 2013. The Claimant provided verification signed by the employer with her semi-annual report that indicated that she had been terminated on March 8, 2013. Department policy provides the following with respect to processing a reported decrease or reported increase in income and when to complete a budget:

Client reporting requirements do not necessarily affect when a budget must be completed.

Complete a budget when either:

The department is made aware of or the client reports a change in income that will affect eligibility or benefit level.
BEM 505 pp. 7.

FAP

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 necessary verification was returned by the due date. Do **not** process a change for a month earlier than the month the change occurred. A supplement may be necessary in some cases.
BEM 505 pp. 8 and 9 (7/1/10).

Based upon this policy, the Department was required to process a budget reflecting the change in income reported in April. Also the Department should have processed a budget in April with a FAP increase for the first allotment issued 10 days after the date the change was reported,(April 11, 2013 change reported) which would have been May 2013 which took into account the decrease in Claimant's income for April based upon the verification of termination from her job and job loss provided with the semi-annual report which required the Department to complete a budget once the reporting was made to effectuate an income reduction in April as required by BEM 505.

The Department received a new hire client notice of May 24, 2013 indicating that the Claimant was employed. Department policy provides the following with respect to processing a reported increase in income:

Income Increase

FIP, SDA, RAP and FAP

For **income increases** that result in a benefit decrease, action must be taken and notice issued to the client within the Standard of Promptness (FAP - 10 calendar days, FIP/SDA - 15 workdays). The effective month is the first full month that begins after the negative action effective date. Example: On 11/21 a FAP client reports starting employment on 11/ 14. Action must be taken to affect January benefits. (Allow for 10 calendar days processing and timely suspense period.) BEM 505 pp. 9 and 10. (10/1/10).

Therefore, the Department is to process a budget in accordance with this policy and adjust the Claimant's FAP benefits as of July, 2013.

Based on the above policy the Department did not reduce the Claimant's FAP benefits properly and did so prematurely as it did not receive the verification of new employment until May 24, 2013 and thus the change (income increase) should not have been effective until after May or for the first full month that begins after the negative action effective date in accordance with BEM 505 covering income increase set forth above.

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 act properly when

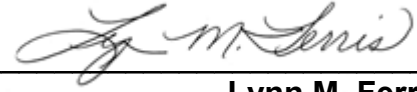
☒ did not act properly when the Department failed to process a FAP budget for loss of job in April received on April 11, 2013 with the semi-annual report and for new hire information received on May 24, 2013.

Accordingly, the Department's ☐ AMP ☐ FIP ☐ FAP ☐ MA ☐ SDA ☐ CDC decision is ☐ AFFIRMED ☒ REVERSED for the reasons stated 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. The Department shall process a FAP budget based upon loss of income reported April 11, 2013 for April and process the change in accordance with BEM 505.
2. The Department shall process a FAP budget based on new hire income based on the verification received May 24, 2013 in accordance with BEM 505.

3. The Department shall issue a FAP supplement, if any are appropriate, based upon the budgets ordered by this Decision in accordance with Department policy.
4. The Claimant's request for hearing dated June 25, 2013 requesting a hearing regarding her FIP benefits is DISMISSED as it is untimely.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 21, 2013

Date Mailed: August 21, 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

LM/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]