

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

IN THE MATTER OF:

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

Reg. No.: 2013-68060
Issue No.: 1021; 3019
Case No.: ██████████
Hearing Date: October 30, 2013
County: Wayne Pathway (98)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 30, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, ES, and ██████████, FIM.

ISSUE

Did the Department properly close or propose to close Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) cases?

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 received FIP and FAP.
2. The Department issued a Notice of Redetermination Telephone Interview on June 11, 2013 for a date of July 1, 2013 regarding FIP and FAP. (Exhibit 4)
3. Claimant submitted documentation on August 1, 2013.
4. The Department processed the Redetermination as if it were received timely.

5. On July 23, 2013, the Department issued a New Hire Client Notice and a Wage Match Client Notice, with due dates of August 2, 2013 and August 22, 2013, respectively. (Exhibit 5, Exhibit 6)
6. The Department issued a medical Verification Checklist (VCL) on August 23, 2013, with a due date of September 3, 2013. (Exhibit 1)
7. Claimant requested a hearing on September 6, 2013 regarding FIP and FAP on a form which indicated a notice date of August 23, 2013.
8. The Department did not present at the hearing a Notice of Case Action for review.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

BEM 220, p.1 instructs that Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action.

A notice of case action must specify the following: the action(s) being taken by the department: the reason(s) for the action, the specific manual item which cites the legal base for an action or the regulation or law itself, and an explanation of the right to request a hearing. BAM 220, p.2 In some instances, Notices of Case Action are not issued for FAP. BAM 220, pp. 4, 5

In the present case, Claimant received FIP and FAP. The Department issued a Notice of Redetermination Telephone Interview on June 11, 2013 for a date of July 1, 2013 regarding FIP and FAP. (Exhibit 4) Claimant submitted documentation on August 1, 2013. The Department processed the Redetermination as if it were received timely. On July 23 ,2013, the Department issued a New Hire Client Notice and a Wage Match Client Notice, with due dates of August 2, 2013 and August 22, 2013, respectively.

(Exhibit 5, Exhibit 6) The Department issued a medical Verification Checklist (VCL) on August 23, 2013, with a due date of September 3, 2013. (Exhibit 1)

Claimant requested a hearing regarding FIP and FAP on September 6, 2013, on Form DHS-18, which form contained a notice date of August 23, 2013. The Department did not present a Notice of Case Action for review by this Administrative Law Judge to determine if the Notice of Case Action met all of the requirements of BAM 220. Without a Notice of Case Action for review, it cannot be concluded that the Department followed its policy when it took action negatively affecting Claimant's benefits. It is noted that the Notice of Case Action may have only addressed FIP, but again, without review of the Notice of Case Action, it cannot be determined whether FAP was addressed as well. The Department acknowledged at the hearing that it made errors with regard to FIP and FAP.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed or proposed to close Claimant's FIP and FAP cases.

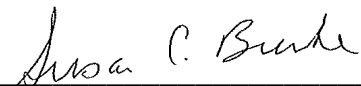
DECISION AND ORDER

Accordingly, the Department's decision regarding FIP and FAP is

REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FIP and FAP cases, effective the date of closure or proposed closure.
2. Issue FIP and FAP supplements, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 31, 2013

Date Mailed: October 31, 2013

NOTICE OF APPEAL: 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.

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).

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

SCB/tm

cc| [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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