

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201423031
Issue No.: 1001; 3001
Case No.: [REDACTED]
Hearing Date: February 18, 2014
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 February 18, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Worker, and [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) and Family Independence Program (FIP) benefits?

FINDINGS OF FACT

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

1. On December 19, 2013, Claimant filed an online application for cash assistance and FAP benefits.
2. In her application, Claimant requested FAP assistance for herself, her [REDACTED]-year-old son, her [REDACTED]-year-old daughter, and her daughter's infant child (Claimant's granddaughter).
3. In her application Claimant requested cash assistance only for herself; she did not identify herself as disabled.

4. On January 7, 2014, the Department sent Claimant a Notice of Case Action denying her application for cash assistance because she was not a dependent child or a caretaker/relative of a child, not pregnant, not aged or disabled, not a refugee, and not in a qualifying relationship with other household members.
5. On January 7, 2013, the Department sent Claimant a Verification Checklist requesting, among other things, verification of her savings account and her daughter's wages by January 17, 2014.
6. On January 17, 2014, the Department sent Claimant a Notice of Case Action denying her applications for cash assistance because her group's countable earnings exceeded the application income limit under the program and for FAP because Claimant had failed to verify requested information.
7. On January 16, 2014, Claimant filed a request for hearing disputing the Department's actions denying her FIP and FAP applications.

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.

Additionally, Claimant requested a hearing concerning the Department's denial of her FIP and FAP applications.

FIP Application

Qualifying individuals are eligible for cash assistance under the State Disability Assistance (SDA) program if disabled or under the FIP program if caring for a minor child. BEM 214 (July 2013), p. 1; BEM 210 (July 2013), p. 1. The Department testified that it initially denied Claimant's application for cash assistance because in her application Claimant did not identify herself as disabled or request cash assistance for her 16-year-old son. However, when an individual applies for cash assistance, the

Department must determine the group composition and consider the client's eligibility for cash assistance in the following order: FIP, then Refugee Cash Assistance (RCA), and then SDA. BEM 209 (July 2013), p. 1. After Claimant filed a request for hearing, the Department, in accordance with policy, reprocessed Claimant's eligibility for cash assistance considering her eligibility for FIP. The Department concluded that Claimant was not eligible for FIP because her income exceeded the FIP income limit.

In order to receive FIP benefits, a client must establish that financial need exists. BEM 518 (July 2013), p. 1. Financial need is established, in part, when an applicant passes the Qualifying Deficit Test. BEM 518, p. 1. A client passes the Qualifying Deficit Test if the certified group's budgetable income (after applying the qualifying earned income disregard) for the income month minus the certified group's payment standard for the application month results in a deficit of at least \$1. BEM 515 (July 2013), pp. 1, 3; BEM 518, pp. 2-3.

Claimant and her 16-year-old son had a FIP group size of two. See BEM 210 (July 2013), pp. 1-1. The FIP monthly assistance payment standard for a group size of two is \$403. RFT 210 (December 2013), p. 1. Therefore, in order to pass the Qualifying Deficit Test and establish financial need for FIP benefits, Claimant would have to establish that her budgetable income was less than \$403.

At the hearing, the Department presented a FIP/SDA income test budget showing that it concluded that Claimant had gross monthly earned income totaling \$1553, monthly child support income of \$36.50, and budgetable income totaling \$1046.50. The Department testified that in determining Claimant's earned income it relied on the following paystubs: gross earnings of \$769.01 received on November 16, 2013; gross earnings of \$666.09 received on November 23, 2013; gross earnings of \$511.51 received on November 30, 2013; and gross earnings of \$267.85 received on December 7, 2013. However, Claimant contended that she had applied for FIP on December 19, 2013 because she had been injured and unable to work after November 24, 2013, when she was placed on medical leave from her job. She added that she submitted a doctor's note with her application indicating that she was placed on medical leave. The Department acknowledged receiving the note with Claimant's online application.

At application, the months subject to the qualifying deficit test are the first **two** application months in which the group could be eligible for a FIP assistance payment. BEM 518, p. 1. If the group is ineligible due to excess income but a change is expected for the next benefit month, the Department must process the second month's benefit determination and, if the client is eligible, does not deny the application. BEM 518, p. 3.

In this case, the Department used Claimant's November 2013 income to prospect her future income even though Claimant indicated when she applied on December 2013 that she had a change in circumstances resulting in a decrease in income. The Department should have considered Claimant's December 2013 and January 2014 income, both her earned income, if any, and her child support received those months, in assessing her FIP eligibility. Because the Department relied on Claimant's November

2013 income in processing Claimant's FIP eligibility, the Department did not act in accordance with Department policy when it denied her FIP application on the basis that her income exceeded the eligibility limit.

FAP Application

In a January 17, 2014 Notice of Case Action, the Department denied Claimant's FAP application for failure to verify requested information. At the hearing, the Department explained that Claimant had failed to verify her savings account and her daughter's earned income, verifications it had requested in a January 7, 2014 VCL. Cash in a savings account is an asset, which must be verified in determining a client's FAP eligibility. See BEM 400 (December 2013), pp. 1, 14, 56. A client must also verify employment income received by members of her FAP group. See BEM 504 (July 2013), p. 13. Because Claimant indicated in her application that she had both a checking and savings account and that her daughter was employed, the Department properly requested verification of Claimant's savings account and her daughter's earnings.

At the hearing, Claimant testified that she had called her Department worker to notify her that she was unable to obtain her daughter's paystubs and to request assistance. The Department is required to assist clients who need and request help in obtaining verifications. BAM 130 (July 2013), p. 3. The Department worker at the hearing, who is Claimant's worker, credibly testified that she called Claimant back in response to her call to discuss the matter but Claimant never returned her calls. The worker's testimony is consistent with her case notes. Where the Department made an attempt to contact Claimant but Claimant did not return the calls, Claimant cannot rely on the Department's lack of assistance to explain her failure to verify the requested information.

With respect to the savings account verification requested in the VCL, Claimant responded that she had submitted a copy of her bank statement to verify both her checking and savings account. Claimant acknowledged that she had both a savings and checking account at her financial institution and contended that the single statement she provided to the Department concerned both accounts. The Department responded that the statement provided only concerned Claimant's checking, not her savings, account. Claimant provided a copy of her online statement into evidence. A review of the statement shows that it is a statement for Claimant's checking account only: the statement is identified as a transaction history for "checking: hassle-free checking" and identifies the account type as "checking." There is an option on the statement to "switch account," which would indicate that Claimant could retrieve information concerning another account, in this case her savings account, from the same financial institution, but she would have to take an action to show information from the other account. Because the statement provided is clearly identified with Claimant's checking account, the Department properly concluded that Claimant failed to verify her savings account.

Based on the evidence presented, the Department acted in accordance with Department policy when it denied Claimant's FAP application for failure to verify requested information.

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 acted in accordance with Department policy when it denied Claimant's FAP application for failure to verify requested information but did not act in accordance with Department policy when it denied Claimant's FIP application.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to denial of Claimant's FAP application and REVERSED IN PART with respect to denial of her FIP application.

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. Reregister and reprocess Claimant's December 19, 2013 FIP application;
2. Notify Claimant in writing of its FIP decision; and
3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from December 19, 2013, ongoing.


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

Date Signed: February 24, 2014

Date Mailed: February 24, 2014

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

ACE/tlf

cc:

