

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-31658
Issue No(s).: 1001, 2000, 3008, 5000
Case No.: [REDACTED]
Hearing Date: April 8, 2014
County: Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 April 8, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist and Hearing Facilitator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce the Food Assistance Program (FAP) monthly allotment based on updated information regarding the household composition?

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 a recipient of FIP and is an ongoing recipient of FAP.
2. Claimant was approved for FIP and FAP with the children included in the household composition.
3. On July 17, 2013, Claimant reported he had his three children every other week.
4. On July 18, 2013 Claimant reported he had his children every other weekend, not every other week.
5. On July 25, 2013, Claimant reported he has the children 15 days per month in the summer and 10 days per month for school months.

6. On February 20, 2014, a Notice of Case Action was issued to Claimant stating the FIP case would close and the FAP monthly allotment would be reduced to \$ [REDACTED] effective April 1, 2014 based on the correction to the household composition.
7. On March 3, 2014, Claimant filed a request for hearing¹ contesting the Department's actions.

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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the

¹ On the March 3, 2014 Request for Hearing, Claimant also marked that he was contesting Medicaid and State Emergency Relief case actions. During the telephone hearing proceedings, it was confirmed that there were no changes with Medicaid eligibility, the approvals for State Emergency Relief, or Claimant's ability to file future State Emergency Relief applications. Therefore, Claimant withdrew the Medicaid and State Emergency Relief portions of his hearing request on the record. Accordingly, the Medicaid and State Emergency Relief portions of Claimant's appeal are DISMISSED.

Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

FIP Policy

BEM 210 addresses FIP group composition. Group composition is the determination of which individuals living together are included in the FIP eligibility determination group/pro-program group and the FIP certified group. To be eligible for FIP both of the following must be true: (1) the group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker, and, (2) the group cannot include an adult who has accumulated more than 60 TANF funded months, beginning October 1, 1996 or any other time limits in the Family Independence Program; see BEM 234. BEM 210

The primary caretaker is the caretaker who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a month, when averaged over a twelve-month period. The twelve-month period begins at the time the determination is being made. BEM 210

The primary caretaker is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half the days in a month, when averaged over a twelve-month period. The twelve-month period begins at the time the determination is being made. When a child spends time in the home of multiple caretakers who do not live together (such as joint physical custody or parent/grandparent), Bridges determines the primary caretaker based on the number of days per month a child sleeps in the home. BEM 210

FAP Policy

BEM 212 addresses FAP group composition. FAP group composition is established by determining all of the following: (1) who lives together; (2) the relationship(s) of the people who live together; (3) whether the people living together purchase and prepare food together or separately; and (4) whether the person(s) resides in an eligible living situation; see LIVING SITUATIONS in BEM 212. The relationship(s) of the people who

live together affects whether they must be included or excluded from the group. First, determine if they must be included in the group. If they are not mandatory group members, then determine if they purchase and prepare food together or separately. BEM 212

The primary caretaker is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period. BEM 212

When a child spends time with multiple caretakers who do not live together such as joint physical custody, parent/grandparent, etc., determine a primary caretaker. Only one person can be the primary caretaker and the other caretaker(s) is considered the absent care-taker(s). The child is always in the FAP group of the primary caretaker. If the child's parent(s) is living in the home, he/she must be included in the FAP group. BEM 212

In this case, Claimant initially reported he has his three children every other week on July 17, 2013. Then on July 18, 2013, Claimant reported he had his children every other weekend, not every other week. However, on July 25, 2013, Claimant further clarified and reported he has the children 15 days per month in the summer and 10 days per month for school months.

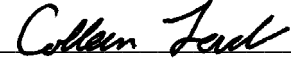
It appears the Department initially approved the FIP and FAP benefits based on the initial report of how often Claimant had his children and determined Claimant was the primary caretaker. It is unclear why the Department did not act to correct the FIP and FAP eligibility determination until February 20, 2014 based on Claimant's report on July 25, 2013 clarifying he has the children 15 days per month in the summer and 10 days per month for school months. However, based on this report Claimant could not be considered the primary caretaker under the BEM 210 and BEM 212 policies. Accordingly, the Department properly determined Claimant was no longer eligible for FIP and re-determined FAP eligibility resulting in a reduced FAP monthly allotment due to the reduced household composition based on the most recent report of the parenting time arrangement available to the Department.

Claimant testified there has been a more recent modification to the parenting time. However, Claimant was unsure if he ever provided documentation of the new parenting time arrangement to the Department. If he has not already done so, Claimant may wish to provide documentation of the new parenting time arrangement to the Department for determining his ongoing benefit eligibility.

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 closed Claimant's FIP case and reduced the FAP monthly allotment based on available information regarding the household composition.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 16, 2014

Date Mailed: April 16, 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

CL/hj

cc:

