

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-000738
Issue No.: FOOD ASSISTANCE PROGRAM
Case No.: [REDACTED]
Hearing Date: May 21, 2014
County: Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], [REDACTED], [REDACTED].

ISSUE

Did the Department properly determine the Claimant's Food Assistance Program (FAP) eligibility?

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 August 19, 2013, the Department notified the Claimant that it would sanction her Family Independence Program (FIP) and Food Assistance Program (FAP) benefits for noncompliance with required self-sufficiency related programming.
2. On April 2, 2014, the Department notified the Claimant that it would reduce her Food Assistance Program (FAP) benefits to \$ [REDACTED] as of May 1, 2014.
3. On April 8, 2014, the Department received the Claimant's request for a hearing protesting the amount of her Food Assistance Program (FAP) benefits.

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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p 4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p. 5, 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.]

On August 19, 2013, the Department notified the Claimant that it would sanction her Family Independence Program (FIP) and Food Assistance Program (FAP) benefits for noncompliance with required self-sufficiency related programing. The Claimant's request for a hearing was received on April 8, 2014. The Claimant's request for a hearing is not timely with respect to the sanctioning of her benefits for noncompliance with the requirements of the Family Independence Program (FIP).

The Claimant has the right to protest her current level of benefits.

The Department will disqualify a Food Assistance Program (FAP) group member for noncompliance when all the following exist:

- The client was active both Family Independence Program (FIP) and Food Assistance Program (FAP) on the date of the Family Independence Program (FIP) noncompliance.
- The client did not comply with Family Independence Program (FIP) employment requirements.
- The client is subject to a penalty on the Family Independence Program (FIP) program.
- The client is not deferred from Food Assistance Program (FAP) work requirements.
- The client did not have good cause for the noncompliance. Department of Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 3.

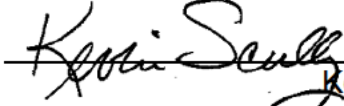
The Department applies policies associated with a Family Independence Program (FIP) related noncompliance and budgets the Last FIP grant amount into the Food Assistance Program (FAP) budget. The Family Independence Program (FIP) grant is removed from the Food Assistance Program (FAP) budget at the end of the FIP penalty period. For individuals serving a lifetime sanction, Bridges will remove the Family Independence Program (FIP) income from the Food Assistance Program (FAP) budget once the individual reaches their FIP lifetime time limit. BEM 233B.

On August 19, 2013, the Claimant placed a lifetime sanction on the Claimant for her Family Independence Program (FIP) noncompliance. On April 2, 2014, the Department determined her Food Assistance Program (FAP) eligibility. The Department determined her Food Assistance Program (FAP) eligibility using a three month average of her child support payments as directed by Bridges Eligibility Manuel Item 505, and including her last Family Independence Program (FIP) grant amount as directed by Bridges Eligibility Manuel Item 233B. After determining the Claimant's monthly unearned income as directed by these two policies, the Department determined that the Claimant and her benefit group are eligible for a monthly allotment of Food Assistance Program (FAP) benefits in the amount of \$ [REDACTED]

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 determined the Claimant's eligibility for the Food Assistance Program (FAP).

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **5/27/2014**

Date Mailed: **5/27/2014**

____ / ____

cc:



NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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