

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

IN THE MATTER OF:



Reg. No.: 201431694
Issue No(s): 1001; 3008
Case No.: [REDACTED]
Hearing Date: May 14, 2014
County: Pathway to Potential

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, an in-person hearing was held on May 14, 2014, from Hamtramck, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Success Coach, and [REDACTED], translator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for exceeding the 48-month state time limit on receipt of FIP benefits?

Did the Department properly calculate Claimant's Food Assistance Program (FAP) 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. Claimant was an ongoing recipient of FIP and FAP benefits.
2. The Department closed Claimant's FIP case effective December 31, 2014.
3. On December 30, 2014, the Department sent Claimant a Notice of Case Action notifying him that effective January 1, 2014, his FAP benefits were \$883 monthly.

4. On March 14, 2014, Claimant filed a request for hearing concerning his FAP amount and FIP case.

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).

Claimant requested a hearing concerning his FIP and FAP cases.

Closure of FIP Case

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 Department testified that, although its hearing summary referenced Claimant's failure to complete the Family Automated Screening Tool (FAST) and Family Self-Sufficient Plan (FSSP), Claimant's case actually closed because Claimant's wife had exceeded the 48-month state limit for receipt of FIP benefits.

Effective October 1, 2011, the total cumulative months that an individual may receive FIP benefits, regardless of whether the funding source is state or federal, is subject to a state lifetime limit of 48 months excluding any exempt months. BEM 234 (July 2013), pp. 1, 4. Exempt months are months the individual is deferred from the Partnership.Accountability.Training.Hope. (PATH) program for (i) domestic violence; (ii) being 65 years of age or older; (iii) a verified disability or long-term incapacity lasting longer than 90 days (including establishing incapacity); or (iv) being a spouse or parent who provides care for a spouse or child with verified disabilities living in the home. BEM 234, p. 4. A family is ineligible for FIP when any mandatory group member in the FIP group reaches the 48 month state time limit. BEM 234, p. 4. Furthermore, once an individual reaches a FIP time limit and the FIP closes, she is not eligible for FIP if she reapplies, even if she meets exemption criteria. BEM 234, p. 6.

The Department contends that Claimant's wife received 50 months of FIP benefits and therefore exceeded the 48 month state lifetime limit. However, Claimant was unable to verify the number of months his wife received benefits without deferral, and the Department did not provide a month-by-month breakdown of when Claimant's wife received benefits. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP case because his wife had received FIP benefits in excess of the state time limit.

Furthermore, the Department acknowledged that it did not send Claimant any notice of case action notifying him that his FIP case would close effective December 31, 2013. The Department is required to send a client whose FIP case is closing for exceeding the time limit timely notice of the case closure, which specifies the action being taken by the Department and the reason for the action and is mailed at least 11 days before the intended negative action takes effect in order to provide the client a chance to react to the proposed action. BAM 220 (January 2014), pp. 2-4. The Department did not act in accordance with Department policy when it failed to provide timely written notice to Claimant of the closure of his FIP case.

FAP Calculation

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.

The Department decreased Claimant's FAP benefits to \$883 effective December 2013. Although the Department did not provide a FAP budget, the budget in the December 30, 2014 Notice of Case Action that showed the information the Department used to calculate Claimant's FAP benefits for January 1, 2014 ongoing was reviewed at the hearing.

Claimant verified all the information used by the Department to calculate his FAP benefits except for the \$829 in unearned income. The Department testified that the \$829 represented Claimant's FIP benefits. Claimant verified that he received FIP benefits totaling \$829 in December 2013. Based on the information in the budget, the Department properly concluded that Claimant's household's net income was \$844 for December 2013. RFT 255 (December 2013), p. 1; BEM 556 (July 2013), pp. 1-7. Therefore, the Department acted in accordance with Department policy when it concluded that, based a net income of \$844 and a group size of 8, Claimant was eligible for FAP benefits of \$883 for December 2013. RFT 260 (December 2013), p. 11.

As discussed above, beginning January 2014 ongoing, the Department stopped paying Claimant any FIP allotment. However, the FAP budget continued to include the FIP allotment in the calculation of Claimant's FAP allotment. The Department confirmed that Claimant was not under any FIP-related employment sanction at the time his FIP case closed and could not provide any explanation for the reason the FIP allotment continued to be considered in the calculation of Claimant's FAP budget for January 1, 2014 ongoing. See BEM 233B (July 2013), p. 3. Therefore, the Department did not act in accordance with Department policy when it included the FIP allotment as unearned income in Claimant's FAP budget for January 1, 2014 ongoing when it was no longer issued such benefits to Claimant.

At the hearing, Claimant was advised that, to the extent his FIP case is reinstated as of January 1, 2014 by virtue of this Hearing Decision, Claimant's recalculated FAP benefits for January 1, 2014 ongoing must take into consideration any FIP benefits the group receives.


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 did not act in accordance with Department policy when it closed Claimant's FIP case without proper notice and when it calculated Claimant's FAP benefit for January 1, 2014 ongoing.

DECISION AND ORDER

Accordingly, the Department's decision 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 case effective January 1, 2014;
2. Recalculate Claimant's FAP benefits for January 1, 2014 ongoing to include as unearned income only FIP benefits that are actually issued to Claimant;
3. Issue supplements to Claimant for any FIP and/or FAP benefits he was eligible to receive but did not from January 1, 2014 ongoing; and
4. Notify Claimant in writing of recalculated FAP benefits.


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

Date Signed: May 20, 2014

Date Mailed: May 20, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

ACE/tlf

cc:

