

**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.: 14-002391
Issue No.: 1010; 2000; 3008
Case No.: ██████████
Hearing Date: June 12, 2014
County: MACOMB-DISTRICT (20)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 June 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Case Manager.

ISSUES

Did the Department properly close Claimant's Family Independence Program (FIP) benefits effective June 1, 2014?

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment in the amount of \$547 for May 2014?

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 is an ongoing recipient of FAP benefits.
2. Claimant was an ongoing recipient of FIP benefits.
3. On February 14, 2014, Claimant notified her previous DHS office that her rent changed to the amount of \$800 and subsequently provided verification on or around February 16, 2014.

4. As a result of the shelter expenses increase, Claimant's FAP benefits increased on or around February to April 2014, in which the budget reflected shelter expense in the amount of \$800.
5. On an unspecified date, Claimant's case transferred to a different DHS office.
6. On April 28, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits continued in the amount of \$659.30 for May 2014. See Exhibit 2, pp. 1-4.
7. On April 28, 2014, the Notice of Case Action also notified Claimant that her FIP benefits would close effective June 1, 2014, ongoing, because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of September 1, 2011. Exhibit 2, pp. 1-4.
8. On April 28, 2014, the Notice of Case Action also notified Claimant that her FAP benefits were approved for \$547 for May 2014, in which the budget reflected shelter expenses in the amount of \$0. Exhibit 2, pp. 1-4.
9. On April 28, 2014, the Notice of Case Action also notified Claimant that her FAP benefits were approved for \$833 effective June 1, 2014, ongoing. Exhibit 2, pp. 1-4.
10. On May 5, 2014, Claimant filed a hearing request, protesting her Medical Assistance (MA) benefits, FIP closure, and FAP allotment. See Exhibit 1, pp. 2-3.

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.

☒ The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

On May 5, 2014, Claimant filed a hearing request, protesting her MA benefits. See Exhibit 1, pp. 2-3. Shortly after commencement of the hearing, Claimant no longer disputed her MA benefits. As such, Claimant's MA hearing request is DISMISSED.

FIP benefits

The FIP benefit program is not an entitlement. BEM 234 (July 2013), p. 1. Under the federal FIP time limit, individuals are not eligible for continued FIP benefits once they receive a cumulative total of 60 months of FIP benefits unless they are eligible for an exception to the federal time limit. An exception exists for individuals who were, as of January 9, 2013, (1) approved/active for FIP benefits **and** (2) exempt from participation in the Partnership.Accountability.Training.Hope. (PATH) program for domestic violence, establishing incapacity, incapacitated more than 90 days, age 65 or older, or caring for a spouse or child with disabilities. BEM 234, p. 2; MCL 400.57a(4). The exception continues as long as the individual remains eligible for any of the foregoing employment deferral reasons. BEM 234, p. 2. The federal limit count begins October 1996. BEM 234, p. 1.

In this case, Claimant was an ongoing recipient of FIP benefits and at the time of the case closure, it appeared that she was deferred from the FIP program due to her being incapacitated. On April 28, 2014, the Notice of Case Action also notified Claimant that her FIP benefits would close effective June 1, 2014, ongoing, because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of September 1, 2011. Exhibit 2, pp. 1-4.

At the hearing, the Department only presented a Michigan/Federal Time Limit Search Summary, which showed she had exceeded the 60-month federal lifetime limit. See Exhibit 1, p. 9. However, the Department failed to present a detailed printout of Claimant's Michigan and/or Federal Time Limit documents to show each countable month. This is imperative because it would indicate if Claimant was deferred during some time periods. Nevertheless, the Department conducted subsequent actions after Claimant's hearing request in which it agreed that Claimant's FIP benefits should be reinstated pending a Medical Review Team (MRT) decision on the deferral. The Department testified that Claimant's FIP benefits have been reinstated pending verification of school reenrollment due back May 23, 2014. See Exhibit 1, pp. 4-5.

Moreover, the Department testified that Claimant has also been sent an MRT paperwork for completion, which is due back by May 23, 2014. See Exhibit 1, pp. 7-8. Furthermore, the Department testified that it would submit the completed medical packet to MRT in an effort to determine the Claimant's ongoing deferral and FIP eligibility.

Claimant testified that she submitted the necessary verifications. Moreover, Claimant testified that she has been deferred from the FIP program due to her incapacity for a while and that she should still be deferred from the FIP program. See Exhibit 1, p. 3. Even though the Department testified that Claimant's FIP benefits have been reinstated, she testified that she has not received benefits for June 2014.

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in the system. BEM 230A (October 2013), p. 12. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. BEM 230A, p. 12.

Determination of a long-term disability is a three step process. BEM 230A, p. 12. The client must fully cooperate with both steps. BEM 230A, p. 12. For step one, once a client claims a disability he/she must provide DHS with verification of the disability when requested. BEM 230A, p. 12. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 12. For step two, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a MRT decision. BEM 230A, p. 12. Step three involves the referral to MRT. See BEM 230A, p. 13. Upon the receipt of the MRT decision, the Department reviews the determination and information provided by MRT. BEM 230A, p. 13.

After a Medical Review Team decision has been completed and the client states they have new medical evidence or a new condition resulting in disability greater than 90 days, the Department gathers the new verification and sends for an updated MRT decision. BEM 230A, p. 16. If new medical evidence is not provided, the Department does not send the case back to the Medical Review Team. BEM 230A, p. 16. The previous MRT decision stands. BEM 230A, p. 16.

When a request for deferral is granted the Department: (i) enters the supporting information in the system; (ii) determine the length of the deferral; (iii) notify the client of the decision and length of deferral; and (iv) documents the decision. BEM 230A, p. 20. The system sends the Department a reminder for a follow-up to review the deferral four calendar days before the end of the month before it is to expire. BEM 230A, p. 20.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective June 1, 2014. First, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not

provide a detailed printout of Claimant's Michigan and/or Federal Time Limit documents to show that she had exceeded the time limit.

Second, it appears that the Department removed Claimant's deferral, which ultimately led to her case being closed due to exceeding the time limits. However, the Department should have continued her deferral status until it obtained an updated MRT decision. Claimant provided credible testimony that she claimed an incapacitation to participate in the work or PATH program. This is supported by the fact that the Department's sent her a Medical Determination Verification Checklist on May 13, 2014 and testified during the hearing that upon receipt of the medical packet it would submit it to MRT to determine her ongoing deferral. See Hearing Summary, Exhibit 1, p. 1 and 7-8. The Department sends these medical verifications in order to obtain a MRT decision. BEM 230A, p. 12. Claimant should be deferred from the PATH program pending the MRT decision. See BEM 230A, pp. 12-13. It is reasonable to conclude that the Department would not have sent such documentation if the Claimant did not allege a disability.

In summary, the evidence indicated that the Claimant's deferral should have continued pending a MRT decision. Therefore, the Department did not act in accordance with Department policy when it closed Claimant's FIP case effective June 1, 2014 for reaching the 60-month federal time limit as of September 1, 2011.

FAP benefits

It should first be noted that Claimant testified that she is only disputing the calculation of her shelter expenses effective May 2014. Thus, this hearing decision will only address such expenses. Claimant is an ongoing recipient of FAP benefits. On February 14, 2014, Claimant testified that she notified her previous DHS office that her rent changed to the amount of \$800 and subsequently provided verification on or around February 16, 2014. As a result of the shelter expenses increase, Claimant's FAP benefits increased on or around February to April 2014, in which the budgets reflected a shelter expense in the amount of \$800. Then, on an unspecified date, Claimant's case transferred to a different DHS office. The Department testified that it appeared when the new DHS office received Claimant's file; it did not have verification of her shelter expenses or at the time of her redetermination.

Additionally, on April 28, 2014, the Notice of Case Action also notified Claimant that her FAP benefits were approved for \$547 for May 2014, in which the budget reflected shelter expenses in the amount of \$0. Exhibit 2, pp. 1-4. On April 28, 2014, the Notice of Case Action also notified Claimant that her FAP benefits were approved for \$833 effective June 1, 2014, ongoing. Exhibit 2, pp. 1-4. It should also be noted that the Department testified that it received verification of her rent on May 6, 2014. See Exhibit 1, pp. 10-12. Also, the Department testified it was Department error for removing Claimant's shelter expenses and that she had already provided verification in February 2014. As such, the Department acknowledged that Claimant's shelter expenses should have remained in the amount of \$800 for May 2014, ongoing.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2014), p. 9. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 9. These include, but are not limited to, changes in address and shelter cost changes that result from the move. BAM 105, p. 9. The Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (January 2014), p. 6. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, p. 6.

The Department verifies shelter expenses at application and when a change is reported. BEM 554 (February 2014), p. 14. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. BEM 554, p. 14.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's FAP benefits, including the shelter expenses, effective May 1, 2014, ongoing. First, Claimant credibly testified that she reported and submitted verification of her shelter expenses in February 2014. As such, Claimant's May 2014 benefits should have reflected shelter expenses in the amount of \$800. Second, the Department acknowledged its error and agreed that Claimant's shelter expenses should have remained in the amount of \$800 for May 2014, ongoing. Therefore, the Department will recalculate Claimant's FAP benefits effective May 1, 2014, ongoing, and include shelter expenses in the amount of \$800. BAM 105, p. 9; BAM 220, p. 6; and BEM 554, p. 14.

DECISION AND ORDER

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 (i) improperly closed Claimant's FIP case effective June 1, 2014; and (ii) improperly calculated Claimant's FAP benefits effective May 1, 2014, ongoing.

Accordingly, the Department's FIP and FAP 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. The Department shall reinstate Claimant's FIP case as of June 1, 2014, ongoing;
2. The Department shall begin recalculating the FIP budget for June 1, 2014, ongoing, in accordance with Department policy;

3. The Department shall supplement for FIP benefits that Claimant was entitled to receive if otherwise eligible and qualified for June 1, 2014, ongoing, in accordance with department policy;
4. The Department shall begin recalculating the FAP budget for May 1, 2014, ongoing, and include shelter expenses in the amount of \$800, in accordance with Department policy;
5. The Department shall issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from May 1, 2014, ongoing; and
6. The Department shall notify Claimant of the FIP and FAP determination in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's MA hearing request (dated May 5, 2014) is **DISMISSED**.



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

Date Signed: **6/18/2014**

Date Mailed: **6/18/2014**

EJF/cl

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.

