

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

IN THE MATTER OF:

**NAMI YOO-BRIZZO
52486 FORD LANE
CHESTERFIELD, MI 48047**

Reg. No.: 14-001690
Issue No.: 2000; 3008; 3011
Case No.: 116828274
Hearing Date: July 3, 2014
County: MACOMB-DISTRICT (12)

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 July 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED] [REDACTED] Hearings Facilitator. The Office of Child Support (OCS) did not participate in the hearing.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective March 1, 2014?

Did the Department properly disqualify Claimant from her FAP benefits for April 2014 due to her failure to establish paternity and/or obtain child support?

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. See Exhibit 2, p. 10.
2. On August 15, 2013, Claimant was placed in non-cooperation with the OCS. See Exhibit 3, p. 1.
3. On April 3, 2014, the Department sent Claimant a Verification Checklist ("VCL"), which requested Claimant to submit verifications and also for her to comply with the OCS by April 14, 2014. Exhibit 3, pp. 2-3.

4. On an unspecified date, Claimant submitted the verifications request, but did not contact the OCS by the due date. See Exhibit 1, pp. 4-11.
5. On April 4, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved from March 10, 2014 to March 31, 2014 in the amount of \$246 and for a group size of two (Claimant and son). See Exhibit 2, pp. 1-2.
6. On April 4, 2014, the Notice of Case Action also notified Claimant that her FAP benefits were approved for April 1, 2014, ongoing, in the amount of \$189 and for a group size of one (Claimant's son only). See Exhibit 2, pp. 1-2.
7. On or around April 15, 2014, Claimant contacted the OCS and the Department placed her in cooperation and back dated her cooperation date to August 15, 2013. See Exhibit 3, p. 1.
8. On April 16, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective May 1, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 3, pp. 4-5.
9. On April 29, 2014, Claimant filed a hearing request, protesting her FAP allotment and Medical Assistance (MA) benefits. See Exhibit 1, pp. 2-3.
10. On April 30, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for May 1, 2014, ongoing, in the amount of \$347 and for a group size of two. See Exhibit 2, pp. 3-4.
11. On May 21, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled her for a hearing on June 2, 2014.
12. On June 3, 2014, the MAHS sent Claimant an Order of Dismissal due to her failure to arrive for the scheduled hearing on June 2, 2014.
13. On June 16, 2014, the MAHS received a letter from the Claimant requesting to vacate the order of dismissal.
14. On June 19, 2014, the Supervising Administrative Law Judge (ALJ) sent Claimant an Order Vacating the Dismissal and Order to Schedule Matter for Hearing.
15. On June 20, 2014, the MAHS sent Claimant a Notice of Hearing, which scheduled her for a hearing on July 3, 2014.

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 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 matters

First, Claimant requested a hearing also disputing her MA benefits. See Exhibit 1, pp. 2-3. Shortly after commencement of the hearing, Claimant was no longer disputing her MA benefits. As such, Claimant's MA hearing request is DISMISSED.

Second, on April 16, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective May 1, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 3, pp. 4-5. Then, on April 30, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for May 1, 2014, ongoing, in the amount of \$347 and for a group size of two. See Exhibit 2, pp. 3-4. Moreover, the Department also presented a FAP Eligibility Summary, which indicated she received \$347 in benefits from May to June 2014. See Exhibit 2, p. 10. As such, the Department conducted subsequent actions in which it reinstated benefits and there was no lapse of coverage. See BAM 600 (July 2014), pp. 4-6. Therefore, this hearing decision will not address Claimant's FAP benefits for May 1, 2014, ongoing. Claimant can request another hearing to dispute her FAP allotment for May 1, 2014, ongoing. See BAM 600, pp. 4-6.

Third, the hearing summary indicated that Claimant applied for benefits on April 8, 2014; however, the Notice of Case Action (dated April 4, 2014) indicated she was approved for benefits from March 10, 2014. See Exhibit 1, p. 1 and Exhibit 2, p. 1. As such, it appears that Claimant applied for benefits on March 10, 2014. Nevertheless, this

hearing decision will address Claimant's FAP allotment and group composition for March to April 2014.

Fourth, the Department testified that an OCS caseworker would not be present for the hearing. Thus, the hearing proceeded without the OCS present.

Fifth, Claimant also testified that she did not receive her Electronic Benefit Transfer (EBT) card in order to receive her FAP benefits using debit card technology. See BAM 401E (January 2014), p. 1. However, this hearing lacks the jurisdiction to address such issues and will not be addressed further in this hearing decision. See BAM 600, pp. 4-6.

FAP group composition/OCS

On April 4, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved from March 10, 2014 to March 31, 2014 in the amount of \$246 and for a group size of two (Claimant and son). See Exhibit 2, pp. 1-2. On April 4, 2014, the Notice of Case Action also notified Claimant that her FAP benefits were approved for April 1, 2014, ongoing, in the amount of \$189 and for a group size of one (Claimant's son only). See Exhibit 2, pp. 1-2. Ultimately, Claimant testified that her group size is two (Claimant and son). Therefore, Claimant contended that the group size should have reflected two for the benefit month of April 2014. It also appears that Claimant's FAP group composition is two for March 2014 and May 1, 2014, ongoing. See Exhibit 2, p. 10.

On August 15, 2013, Claimant was placed in non-cooperation with the OCS. See Exhibit 3, p. 1. On April 3, 2014, the Department sent Claimant a VCL, which requested Claimant to submit verifications and also to comply with the OCS by April 14, 2014. Exhibit 3, pp. 2-3. At the hearing, Claimant testified that she submitted the VCL documents by the due date, however, acknowledged that she contacted the OCS after the due date. Claimant testified that she spoke to the OCS and provided all the necessary information regarding her son's absent parent. Moreover, the evidence presented that on or around April 15, 2014, Claimant contacted the OCS and the Department placed her in cooperation and back dated her cooperation date to August 15, 2013. See Exhibit 3, p. 1. The OCS was not present for the hearing nor could the Department provide specific testimony regarding Claimant's actual non-compliance with the OCS.

The custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (January 2014), p. 1.

Failure to cooperate without good cause results in disqualification. BEM 255, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255, p. 2.

For FAP applications, the client has 10 days to cooperate with the OCS. BEM 255, p. 11. The Department informs the client to contact the OCS in the verification check list (VCL). BEM 255, p. 11. The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true: there is a begin date of non-cooperation in the absent parent logical unit of work; there is not a subsequent comply date; support/paternity action is still a factor in the child's eligibility; and good cause has not been granted nor is a claim pending. BEM 255, pp. 11-12.

Based on the foregoing information and evidence, the Department properly disqualified Claimant from her FAP benefits and determined her group composition was one for only April 2014. The Department properly sent a VCL to the Claimant informing her to contact OCS and that she had 10 days to cooperate in accordance with Department policy. See BEM 255, p. 11 and Exhibit 3, pp. 2-3. Moreover, Claimant acknowledged that she did not contact the OCS until after the VCL due date. As such, the Department acted in accordance with Department policy when it disqualified Claimant from her FAP benefits only for April 2014 due to her failure to comply with the VCL/noncompliance. BEM 255, pp. 1-12.

FAP benefits for March and April 2014

As stated above, the certified group size is two for March 2014 and one for April 2014. Moreover, there were no senior/disabled/disabled veteran (SDV) members. The Department presented the March to April 2014 FAP budget for review from the Notice of Case Action dated April 4, 2014. See Exhibit 2, pp. 1-2.

The Department first calculated Claimant's self-employment income to be \$75, which she did not dispute. See Exhibit 2, p. 2 and BEM 502 (April 2014), pp. 1-4. Moreover, the Department calculated Claimant's unearned income to be \$198. See Exhibit 2, p. 2. The Department testified part of the unearned income comprised of Claimant's Department of Veterans Affairs (VA) compensation. However, the Department was unaware of the remaining unearned income amount. The Department testified that it was possibly due to her FAP benefits being expedited. See BAM 117 (October 2013), pp. 1-7. It should be noted that Claimant's May 1, 2014, ongoing, benefit indicated an unearned income amount of \$127. See Exhibit 2, p. 4.

Claimant testified that this amount was her VA educational benefits and not income. Claimant testified she indicated in her application that she notified the Department that it was VA educational benefits, however, no application was presented at the hearing. As stated previously, on April 3, 2014, the Department sent Claimant a VCL, which requested verification of her VA compensation. See Exhibit 3, p. 3. Moreover, even though the document is not date stamped, the evidence packet included a letter from

the VA dated January 31, 2014. See Exhibit 1, p. 8. Specifically, the VA letter indicated that the Claimant was awarded educational allowance for \$127.92 from March 9, 2014, to May 17, 2014. See Exhibit 1, p. 8.

The Department of Veterans Affairs (VA) has numerous programs that make payments to veterans and their families. BEM 503 (January 2014), p. 35. VA provides educational benefits under several programs. BEM 503, p. 37. The Department excludes education benefits as income and as an asset. BEM 503, p. 37.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's unearned income effective March 1, 2014, ongoing. First, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it was unable to determine how it calculated Claimant's remaining unearned income amount. Second, the evidence presented that Claimant received VA educational benefits and the Department improperly included it as income. See BEM 503, p. 37 and see Exhibit 1, p. 8. Instead, the Department should have excluded her VA educational benefits as income or as an asset in accordance with Department policy. See BEM 503, p. 37. The Department will recalculate Claimant's FAP benefits and remove the VA educational benefits as her unearned income.

Additionally, the Department properly applied the \$151 standard deduction applicable to Claimant's group size of one (for April 2014) and two (for March 2014). RFT 255 (December 2013), p. 1 and Exhibit 2, p. 2. Also, the Department calculated Claimant's housing costs in the amount of \$400, which she did not dispute. See Exhibit 2, p. 2. Finally, the Department properly applied the \$553 heat/utility standard. See RFT 255, p. 1.

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 (i) acted in accordance with Department policy when it properly disqualified Claimant from her FAP benefits and reflected a group size of one for only April 2014; and (ii) did not act in accordance with Department policy when it improperly calculated Claimant's FAP benefits effective March 1, 2014, ongoing.

Accordingly, the Department's FAP decision is AFFIRMED IN PART with respect to the disqualification/group size of one for April 2014 and REVERSED IN PART with respect to improperly calculating Claimant's FAP benefits effective March 1, 2014, ongoing.

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. Begin recalculating the FAP budget for March 1, 2014, ongoing and remove Claimant's VA compensation as unearned income, in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from March 1, 2014, ongoing; and
3. Notify Claimant in writing of its FAP decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's MA (dated April 29, 2014) hearing request is **DISMISSED**.



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

Date Signed: **7/9/2014**

Date Mailed: **7/9/2014**

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.

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.

