

**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.: 14-004671
Issue No.: 1000;3008
Case No.: ██████████
Hearing Date: September 18,2014
County: WAYNE-DISTRICT 55

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 September 18, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and his daughter/Authorized Hearing Representative ██████████ ██████████, who also served as translator. Participants on behalf of the Department of Human Services (Department) included ██████████, Case Manager.

ISSUE

Did the Department properly process Claimant's Family Independence Program (FIP) and 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. In connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed.
3. On June 11, 2014, the Department sent Claimant a Notice of Case Action informing him that effective June 1, 2014, he was approved for FAP benefits in the amount of \$361 monthly and that two of his children were removed as FAP group members on the basis that they are ineligible students. (Exhibit 2)

4. Claimant's was to be issued his FIP benefits for the month of June on June 6, 2014 and his FAP benefits for the month of June on June 9, 2014.
5. Claimant's FIP and FAP benefits were issued late.
6. On June 10, 2014, Claimant submitted a hearing request disputing the Department's actions with respect to his FIP and 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).

FIP

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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (March 2014), p. 6, 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.]

In the present case, Claimant was an ongoing recipient of FIP benefits and Claimant's FIP benefits were previously issued on the sixth of every month. Claimant submitted a

hearing request on June 10, 2014, because he had not been issued his FIP benefits for the month of June 2014. At the hearing, the Department testified that due to a system error, Claimant's FIP benefits were issued a few days late and that Claimant received the correct amount of FIP benefits for June 2014. The Department provided an eligibility summary in support of its testimony. (Exhibit 1). Claimant confirmed that he received his FIP benefits on June 11, 2014, that the benefits issued were in the correct amount and that there had been no lapse in his receipt of FIP benefits.

Therefore, although issued late, the Department corrected the action upon which Claimant requested a hearing, there is no aggrieved party in this case, and there remains no issue left to be resolved. As such, Claimant's hearing request with respect to FIP is **DISMISSED**.

FAP

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.

Claimant submitted a hearing request on June 10, 2014, because he did not receive his FAP benefits for the month of June 2014 on the scheduled day of June 9, 2014. At the hearing, the Department testified that in connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed and that due to a system error, he was issued his FAP benefits on June 11, 2014, as opposed to June 9, 2014. The Department presented an eligibility summary showing that Claimant was issued FAP benefits on June 11, 2014. (Exhibit 1). Claimant testified that when he received his FAP benefits on June 11, 2014, they were in an amount much less than he was previously receiving.

Although Claimant testified he was never notified of the decrease in his FAP benefits, the Department presented a Notice of Case Action dated June 11, 2014, which informs Claimant that effective June 1, 2014, he was approved for FAP benefits in the amount of \$361. (Exhibit 2). The Department testified that Claimant's FAP benefits were decreased because two of his children were removed as group members based on their status as ineligible students.

A person who is in student status and does not meet the criteria in BEM 245 is a non-group member and is not eligible to receive FAP benefits. BEM 212 (February 2014), p. 9. A person enrolled in a post-secondary education program may be in student status and eligible for FAP assistance, provided that certain eligibility criteria are met. BEM 245 (July 2013), pp.3-5.

At the hearing, Claimant confirmed that his two children are 19 years old and that they are enrolled half time or more in college or university. Claimant testified that his children are not employed, not physically or mentally unfit for employment and that they do not participate in on-the-job training or in a work study program. Claimant's children are also not single parents nor do they provide more than half of the physical care of a group member under the age of six. BEM 245, pp.2-4.

Based on the above information and additional testimony provided at the hearing by both Claimant and the Department, Claimant's children do not meet any of the criteria found in BEM 245; and are therefore not eligible to receive FAP benefits. BEM 245, pp.2-4. Therefore, the Department properly removed Claimant's two children from the FAP group.

The FAP EDG Net Income Results Budget for the month of June 2014 was also reviewed to determine if the Department properly calculated the amount of Claimant's FAP benefits for the month of June 2014, based on his reduced group size. (Exhibit 3). All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2014), pp. 1 – 4. The Department considers the gross amount of money earned from Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (January 2014), pp. 31-32. Family Independence Program (FIP) benefits are considered unearned income of the head of household. BEM 503, p. 14

According to the FAP budget provided, the Department concluded that Claimant had unearned income of \$1188 which it testified came from \$505 in SSI benefits for both Claimant and his wife, and \$158 in monthly FIP benefits. Although Claimant confirmed that the amounts Claimant relied on by the Department were correct, after further review, the unearned income amounts relied on by the Department do not total \$1188.

The budget shows that the Department properly applied the \$151 standard deduction applicable to Claimant's group size of three and the Department testified that the \$553 standard heat and utility deduction available to all FAP recipients was also properly applied, as well as housing costs of \$550 which Claimant confirmed were correct. RFT 255 (December 2013), p 1; BEM 554 (May 2014), pp. 12-15.

Additionally, because Claimant's FAP group includes Senior/Disabled/Veteran (SDV) members, the group is eligible for a deduction for verified medical expenses incurred in excess of \$35. BEM 554, p 1. The Department testified that because no medical expenses were submitted, this deduction was not considered in the budget.

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 although the Department properly removed Claimant's two children as group members based on their status as ineligible students, the Department failed to satisfy its burden of showing

that it acted in accordance with Department policy when it calculated the amount of Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the hearing request with respect to FIP is DISMISSED and the Department's 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. Recalculate Claimant's FAP budget for June 1, 2014, ongoing; and
2. Issue FAP supplements to Claimant for June 1, 2014, ongoing, in accordance with Department policy.



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

Date Signed: **10/7/2014**

Date Mailed: **10/7/2014**

ZB / 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.

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

CC:

[REDACTED]