

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 14-016059
Issue No.: 1000; 2000; 3007; 3011
Case No.: ██████████
Hearing Date: December 17, 2014
County: WAYNE PATHWAYS TO
POTENTIAL

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 three-way telephone hearing was held on December 17, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Specialist. There was no Office of Child Support (OCS) specialist present for the hearing.

ISSUES

Did the Department fail to process Claimant's alleged Cash (Family Independence Program (FIP)) application on or around September 4, 2014?

Did the Department properly disqualify Claimant from her Food Assistance Program (FAP) benefits due to her failure to establish paternity and/or obtain child support and her failure to participate in employment-related activities without good cause?

Did the Department properly determine Claimant's FAP eligibility/group composition effective August 1, 2014, ongoing?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Effective August 1, 2014, to August 31, 2014, Claimant received a FAP allotment of \$497 (group size of three). See Exhibit 2, p. 11.

2. On or around September 4, 2014, Claimant inquired from the Department if she could apply for Cash (FIP) assistance. The Department indicated to the Claimant that she would not be eligible because she had exceeded the federal lifetime limit. As a result, Claimant did not apply for Cash (FIP) assistance.
3. On September 4, 2014, the Department sent Claimant a Notice of Case Action notifying her that she was approved for FAP benefits in the amount of \$273 effective September 1, 2014 (group size of two). See Exhibit 2, pp. 1-2.
4. On September 19, 2014, the Department sent Claimant a Notice of Case Action notifying her that the FAP benefits would be reduced to the amount of \$194 effective October 1, 2014 (group size of two). See Exhibit 2, pp. 3-4.
5. On October 9, 2014, the Department sent Claimant a Notice of Case Action notifying her that the FAP benefits would be increased to the amount of \$357 effective November 1, 2014 (group size of two). See Exhibit 2, pp. 5-6.
6. On November 10, 2014, Claimant filed a hearing request, protesting her/children's MA benefits, Cash (FIP) assistance, and FAP benefits. 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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Medical Assistance (MA) benefits

On November 10, 2014, Claimant filed a hearing request, protesting her and her children's MA benefits. See Exhibit 1, pp. 2-3. Shortly after commencement of the hearing, Claimant testified that she is no longer disputing her or her children's MA benefits. As such, Claimant's MA hearing request is DISMISSED.

Cash (Family Independence Program (FIP)) benefits

On or around September 4, 2014, Claimant inquired in-person from the Department if she could apply for Cash (FIP) assistance. The Department indicated to the Claimant that she would not be eligible because she had exceeded the federal lifetime limit. The Department's hearing summary indicated that Claimant's Cash benefits closed effective August 2013 for exceeding the federal lifetime limit. See Exhibit 1, p. 1. As a result, Claimant did not apply for Cash (FIP) assistance.

On the same day a person comes to the local office, a person has the right to file an application and get local office help to provide the minimum information for filing. BAM 105 (April 2014 and October 2014), p. 1. The Department determines eligibility and benefit amounts for all requested programs. BAM 105, pp. 15-16. Upon certification, the Department automatically sends a notice of case action, informing the client of the decision. BAM 105, p. 17.

A request for assistance may be in person and includes the right to receive a DHS-1171, Assistance Application. See BAM 110 (July 2014), p. 1. Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110, p. 4. The Department registers a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 19 and see also BAM 115 (July 2014), pp. 1-35 (application processing).

Additionally, 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.

BAM 600 states that the Michigan Administrative Hearing System (MAHS) may grant a hearing about a denial of an application or delay of any action beyond standards of promptness, etc...See BAM 600 (July and October of 2014), pp. 4-5. The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600, p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6.

Based on the foregoing information and evidence, this Administrative Law Judge (ALJ) lacks the jurisdiction to address Claimant's Cash (FIP) hearing request. Claimant failed to submit any Cash (FIP) application in order to determine her eligibility. Because Claimant failed to submit any Cash (FIP) application, this ALJ lacks any jurisdiction to address her Cash (FIP) hearing request. See Rule 400.903(1); BAM 105, pp. 1, 16, and 17; BAM 110, pp. 1, 4, and 19; and BAM 600, pp. 4-6. Claimant's Cash (FIP) hearing request is DISMISSED for lack of jurisdiction.

Food Assistance Program (FAP) benefits

At the hearing, Claimant disputed the amount of her FAP allotment effective August 1, 2014, ongoing. Specifically, Claimant testified that she received a reduced FAP allotment because she was disqualified from her FAP benefits. Claimant argued her group composition went from three to two based on the disqualifications.

In response, the Department testified that Claimant was disqualified from her FAP benefits based on a non-cooperation with the Office of Child Support (OCS) and her failure to participate in employment-related activities without good cause. However, the Department testified the disqualification began on September 1, 2014. The Department presented Claimant's Eligibility Summary, which showed she received a FAP allotment of \$497 (group size of three) for August 2014. See Exhibit 2, p. 11.

Additionally, the Department testified that both disqualification reasons (OCS and employment-related activities) were done in error. As to Claimant's non-cooperation with the OCS, the Department could not provide any non-cooperation date. Furthermore, the Department testified that Claimant was in cooperation with the OCS and she should have not been disqualified. Also, the Department testified that Claimant's non-cooperation date with employment-related activities was February 22, 2013. Claimant was terminated from her employer due to budget reasons as of March 10, 2014. Claimant testified that she applied for unemployment and only received twenty weeks of unemployment compensation (ended on or around September 2014). See Exhibit 1, p. 11 (case comments indicated Claimant's unemployment ended September 13, 2014). As such, the Department again argued that Claimant should not have been disqualified based on non-cooperation with employment-related activities.

Based on the foregoing information and evidence, the Department properly determined Claimant's FAP eligibility/group composition for August 2014 and improperly disqualified Claimant from her FAP benefits effective September 1, 2014, ongoing.

First, the evidence presented that Claimant received a FAP allotment of \$497 (group size of three) for August 2014. See Exhibit 2, p. 11. Claimant argued that her FAP group composition was two for August 2014; however, the evidence indicated otherwise. As such, the Department properly determined Claimant's FAP eligibility/group composition for August 2014.

Second, 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 and October 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.

Cooperation is a condition of eligibility. BEM 255, p. 9. Cooperation is required in all phases of the process to establish paternity and obtain support. BEM 255, p. 9.

For FAP cases, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255, p. 13. The individual and his/her needs are removed from the FAP Eligibility Determination Group (EDG) for a minimum of one month. BEM 255, p. 13. The remaining eligible group members will receive benefits. BEM 255, p. 13.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly disqualified Claimant from her FAP benefits effective September 1, 2014. First, the Department failed to present any non-cooperation date nor was OCS present for the hearing to provide testimony regarding the non-cooperation. Second, the Department acknowledged that it in error disqualified from her FAP benefits. As such, the Department will remove Claimant's non-cooperation with the OCS, if not already completed.

Third, Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may apply when the client is pending or active FAP only and refuses employment (voluntarily quits a job or voluntarily reduces hours of employment) without good cause. BEM 233B (July 2013), p. 1.

Non-deferred adult members of FAP households must follow certain work-related requirements in order to receive food assistance program benefits. BEM 233B, p. 4. The Department disqualifies non-deferred adults who were working when the person:

voluntarily quits a job of 30 hours or more per week without good cause, or voluntarily reduces hours of employment below 30 hours per week without good cause. BEM 233B, p. 4.

For the first occurrence, the Department disqualifies the person for one month or until compliance, whichever is longer. BEM 233B, p. 6. For a second or subsequent occurrence, disqualify the person for six months or until compliance, whichever is longer. BEM 233B, p. 6.

When a client has refused suitable employment, the Department holds a triage appointment/phone conference to determine good cause prior to the negative action period. BEM 233B, pp. 5-6. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with DHS. BEM 233B, p. 6. If the client does not participate in the triage meeting, the Department determines good cause for FAP based on information known at the time of the determination. BEM 233B, p. 6.

Good cause is a valid reason for failing to participate in employment and/or self-sufficiency-related activities or refusing suitable employment. BEM 233B, p. 7. The Department investigates and determines good cause before deciding whether to impose a disqualification. BEM 233B, p. 7. Good cause can include meeting a deferral; client unfit for the job; health or safety risk; illness or injury; religion; net income loss; no child care; no transportation; and other reasons listed in BEM 233B. BEM 233B, pp. 7-10.

Deferrals include an applicant for or recipient of unemployment benefits. BEM 230B (October 2013), p. 6. Non-deferred adults who are not working or are working less than 30 hours per week must: accept a bona fide offer of employment or participate in activities required to receive unemployment benefits if the client has applied for or is receiving unemployment benefits. BEM 230B, p. 2. If a client is an applicant or recipient of unemployment benefits, she must follow through with the unemployment benefits program's procedures and requirements. BEM 230B, p. 2.

Based on the foregoing information and evidence, the Department improperly disqualified Claimant from her FAP benefits effective September 1, 2014. First, both parties acknowledged that Claimant was terminated from her employer due to budget reasons as of March 10, 2014. The Department testified that Claimant should not have been disqualified based on a non-cooperation with employment-related activities. Second, the evidence appears to indicate that Claimant had a good cause reason, which was meeting a deferral requirement. The deferral appeared to be Claimant receiving unemployment benefits, which ended on or around September 2014. See BEM 230B, pp. 1-2 and Exhibit 1, p. 11. Nevertheless, the Department testified that it disqualified her from her FAP benefits based on Department error. As such, the Department will remove Claimant's non-cooperation with employment-related activities, if not already completed.

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 determined Claimant's FAP eligibility/group composition for August 2014; and (ii) did not act in accordance with Department policy when it disqualified Claimant from her FAP benefits effective September 1, 2014, ongoing.

Accordingly, the Department's FAP decision is **AFFIRMED IN PART** with respect to August 2014 and **REVERSED IN PART** with respect to September 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. Remove any noncooperation sanction imposed by the Office of Child Support back to the date Claimant was last found to be in "non-cooperation" (if not already completed);
2. Remove Claimant's FAP non-cooperation with employment-related activities from her case;
3. Redetermine Claimant's FAP group composition effective September 1, 2014, ongoing, in accordance with Department policy;
4. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from September 1, 2014, ongoing; and
5. Notify Claimant of its FAP decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's Cash (FIP) and MA hearing request (dated November 10, 2014) is **DISMISSED**.


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

Date Signed: **12/19/2014**
Date Mailed: **12/19/2014**
EJF / cl

