

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-004743
Issue No.: 1007
Case No.: [REDACTED]
Hearing Date: July 24, 2014
County: Genesee-District 6 (Clio Rd)

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 24, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED].

ISSUE

Did the Department properly determine Claimant's Family Independence Program (FIP) 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 on-going FIP recipient.
2. Claimant had two minor nieces join her group in April 2014.
3. Claimant receives child support from time to time, and received child support in January and March 2014 (Exhibit 1 Pages 12 – 13), which was included in her FIP budget beginning April 2014.
4. The Department based Claimant's FIP on her household size of three for April 2014, and did not include the two nieces who were receiving FAP in Indiana through April 30, 2014. (Exhibit 1 Page 36.)
5. On April 1, 2014, Claimant provided the Department with a notarized letter that the two nieces would be in Claimant's care from March 29, 2014, until July 1, 2014. (Exhibit 1 Page 26.)

6. In a Notice of Case Action (NCA) dated April 2, 2014, Claimant was informed that her FIP would be [REDACTED] per month beginning May 1, 2014. (Exhibit 1 Pages 3-9.)
7. On May 15, 2014, Claimant provided the Department with verification that one of the nieces was enrolled in a school in Flint. (Exhibit 1 Pages 34-35.)
8. For the period of May 1, 2014, the Department based her income on child support averaging [REDACTED] per month, with an award of [REDACTED] per month for FIP. (Exhibit 1 Page 23, dated April 25, 2014.)
9. Claimant received [REDACTED] in both March and April 2014. (Exhibit 1 Page 25.)
10. On May 27, 2014, the Department received Claimant's hearing request.

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.

Claimant initially expressed that she intended to request a hearing on the issues of FIP, FAP, and MA. During the course of the hearing, Claimant expressed that her only disagreement was with respect to the amount of FIP she received for the months of April and May, 2014, which was premised on a group size of three, and child support that she received in the preceding months. This decision will address only that issue.

The Department provided evidence that Claimant received child support of [REDACTED] in January 2014, and [REDACTED] in March 2014. (Exhibit 1 Pages 12-13.)

Child support is considered “unearned income.” See BEM 503. Per BEM 505, child support is generally averaged over a three-month period if the amount of income fluctuates. “Use the average of child support payments received in the past three calendar months, unless changes are expected. Include the current month if all payments expected for the month have been received. Do not include amounts that are unusual and not expected to continue.” The issue can center on whether the amounts are “unusual and not expected to continue.” The Claimant testified that she usually does not receive child support and that the support she received in January and March 2014 was unusual.

BEM 505 goes on to state, “If the past three months’ child support is not a good indicator of future payments, calculate an expected monthly amount for the benefit month based on available information and discussion with the client.” The testimony is convincing that the past three months’ child support in this case is not a good indicator of future payments. The Department should have calculated an expected monthly amount that was more consistent with the information available from the Office of Child Support and from the Claimant.

The other issue is whether the Department should have included Claimant’s two nieces in the group size for purposes of calculating FIP for April and May 2014. BEM 210 (7/1/13) pp 4-5 defines the FIP Group:

The FIP EDG includes all household members whose information is needed to determine FIP eligibility. Based on data entered in the system, Bridges determines all of the following:

- Each household member’s FIP EDG participation status.
- Which individuals’ income and assets are considered.
- Which individuals’ needs are considered.
- Which individuals’ relationship(s) to other members are considered.

These determinations are made based on the individual’s:

- Age.
- School attendance.
- Relationship(s) to other household members.
- Program Request status.
- Receipt of other program benefits such as SSI, child foster care payments or Independent Living Stipend.
- Criminal justice disqualifications.
- FIP time limit.

The evidence shows that the nieces were still receiving FAP through their mother's benefits; and therefore, part of their mother's group, in Indiana, through the end of April 2014. The evidence also shows that they were living with the Claimant in early April 2014, and their presence in the household had been established by the end of April 2014. Therefore, they should have been considered part of her group beginning May 1, 2014, for FIP purposes.

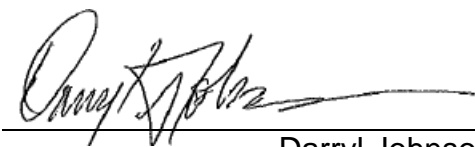
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined Claimant's FIP.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to Claimant's FAP and REVERSED IN PART with respect to Claimant's CDC.

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. Redetermine Claimant's FIP benefit eligibility, effective April 1, 2014, based upon a group size of three and a level of child support that she can expect to receive;
2. Redetermine Claimant's FIP benefit eligibility, effective May 1, 2014, based upon a group size of five;
3. Issue a supplement to Claimant for any benefits improperly not issued.



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

Date Signed: **7/25/2014**

Date Mailed: **7/25/2014**

DJ/jaf

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:

