

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

**IN THE MATTER OF:**

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

Reg. No.: 14-005796  
Issue No(s): 1001; 3000  
Case No.: ██████████  
Hearing Date: February 11, 2015  
County: Wayne (57)

**ADMINISTRATIVE LAW JUDGE:** Eric J. 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 February 11, 2015, 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 Manager; and ██████████, Family Independence Specialist.

**ISSUES**

Did the Department properly calculate Claimant's FAP benefits effective June 13, 2014 to June 30, 2014?

Did the Department properly deny Claimant's Cash (Family Independence Program (FIP)) application effective July 1, 2014?

Did the Department under-issue Claimant FIP supplements for the benefit period of May 1, 2014 to June 30, 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 and FIP benefits. See Exhibit 1, pp. 11-18.

2. On April 2, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on April 8, 2014. Exhibit 1, p. 9.
3. The Department did not present the Notice of Case Action notifying Claimant that her FIP case would close effective May 1, 2014, based on the non-compliance.
4. On or around June 2014, Claimant applied for FIP and FAP benefits. See Exhibit 1, p. 6.
5. On June 17, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$206 (group size of two) for the period of June 1, 2014 to June 30, 2014. See Exhibit 1, pp. 6-8.
6. On June 17, 2014, the Notice of Case Action also informed Claimant that her Cash (FIP) application was denied effective July 1, 2014 because she was currently serving a three-month FIP disqualification from May 1, 2014 to July 31, 2014. See Exhibit 1, pp. 6-8. However, Claimant's benefit summary inquiry indicated she received FIP benefits for July 2014. See Exhibit 1, p. 17. Claimant did not receive FIP benefits for May and June of 2014. See Exhibit 1, p. 17.
7. On June 27, 2014, Claimant filed a hearing request, protesting the Cash (FIP) denial/closure and her FAP allotment. See Exhibit 1, pp. 3-4.
8. On July 8, 2014, the Hearing Summary document indicated that Claimant's Cash (FIP) benefits were closed in error for the Work First program. See Exhibit 1, p. 1.
9. On July 23, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled her for a hearing on August 4, 2014.
10. On August 4, 2014, Claimant attempted to submit a Hearing Request Withdrawal for her FIP benefits.
11. On August 18, 2014, the Administrative Law Judge (ALJ) denied Claimant's Hearing Request Withdrawal and her hearing would be rescheduled.
12. On December 19, 2014, the Department issued a FAP supplement totaling \$19 for the benefit period of June 13, 2014 to June 30, 2014. See Exhibit 1, p. 14.
13. On January 2, 2015, MAHS sent Claimant a Notice of Hearing, which rescheduled her hearing on January 15, 2015.
14. On January 15, 2015, Claimant attempted to submit a Hearing Request Withdrawal for her Cash (FIP) benefits.
15. On January 22, 2015, the ALJ denied Claimant's Hearing Request Withdrawal and her hearing would be rescheduled.

16. On January 29, 2015, MAHS sent Claimant a Notice of Hearing, which rescheduled her hearing on February 11, 2015.
17. On February 11, 2015, all parties were present for the hearing and the hearing proceeding accordingly.

### **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.

#### **FAP benefits**

On June 17, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$206 (group size of two) for the period of June 13, 2014 to June 30, 2014. See Exhibit 1, pp. 6-8. On June 27, 2014, Claimant filed a hearing request, protesting her FAP allotment. See Exhibit 1, pp. 3-4. It should be noted that the Request for Hearing referenced the Notice of Case Action dated June 17, 2014. See Exhibit 1, pp. 3-4. Specifically, Claimant's hearing request stated she was only given FAP benefits for a household size of two, but that her family size is three. See Exhibit 1, p. 4.

Subsequent to Claimant's hearing request, on December 19, 2014, the Department issued a FAP supplement totaling \$19 for the benefit period of June 13, 2014 to June 30, 2014. See Exhibit 1, p. 14. Claimant acknowledged that FAP supplement and no longer disputed her benefits for June 2014. However, Claimant testified that the Department still failed to supplement her FAP benefits for the period of December 2013 to May 2014. Claimant testified that the group size was also three for this period and the Department failed to supplement her.

Based on the above information, Claimant's FAP hearing request is DISMISSED for lack of jurisdiction. First, Claimant's FAP issue is moot because of the Department's

subsequent action of supplementing FAP benefits for June 2014. Claimant acknowledged the FAP supplement and no longer disputed her benefits for June 2014. Second, a review of Claimant's hearing request did not discover any dispute with prior benefit months or a request for supplemental benefits (i.e., supplement request for December 2013, ongoing). Claimant's hearing request referenced the Notice of Case Action generated on June 17, 2014 and this notice only addressed her FAP benefits for June 2014. See Exhibit 1, pp. 3-8. As stated above, Claimant no longer disputes her FAP benefits for June 2014. As such, this Administrative Law Judge (ALJ) lacks the jurisdiction to address Claimant's dispute for the issuance of FAP supplemental benefits from December 1, 2013 to May 31, 2014. See BAM 600 (March 2014 and January 2015), pp. 4-6.

### **FIP benefits**

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2013), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1. A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. BEM 230A, p. 1 and see BEM 233A (July 2013), p. 1. The Department closes the case for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A, p. 1.

On June 17, 2014, the Notice of Case Action informed Claimant that her Cash (FIP) application was denied effective July 1, 2014 because she was currently serving a three-month FIP disqualification from May 1, 2014 to July 31, 2014. See Exhibit 1, pp. 6-8. However, Claimant's benefit summary inquiry indicated she received FIP benefits for July 2014. See Exhibit 1, p. 17. Claimant did not receive FIP benefits for May and June of 2014. See Exhibit 1, p. 17. On June 27, 2014, Claimant filed a hearing request, protesting the Cash (FIP) denial/closure. See Exhibit 1, pp. 3-4. Specifically, Claimant argued that she is entitled to FIP benefits for May and June of 2014.

As part of the evidence packet, the Department included its Hearing Summary. See Exhibit 1, p. 1. The Hearing Summary indicated that Claimant's benefits have been restored and the cash was closed in error for Work First. See Exhibit 1, p. 1. Based on this information, this ALJ interprets this statement to mean that Claimant's non-compliance was improper and that she should be entitled to FIP benefits from May 2014 to July 2014 (the original three-month sanction). This inference is supported by the Claimant receiving FIP benefits in July 2014, which was one of the original sanction months. See Exhibit 1, p. 17. If there was actually a three-month sanction present in this case, Claimant would not have received benefits for July 2014. Because the evidence presented that Claimant's cash was closed in error for the non-compliance, the Department will issue her supplements for the time period of May 1, 2014 to June

30, 2014. See BEM 233A, p. 1. The Department will also remove Claimant's first FIP sanction, if not already completed.

Additionally, supplemental benefits are issued to correct an underissuance (i.e., the group received less assistance than they were eligible to receive). BAM 405 (July 2013), p. 1. Reasons for a supplement include agency error. BAM 405, p. 3. Agency errors are underissuances resulting from:

- Computer or data entry errors.
- Inaccurate use or misapplication of policy.
- Failure to process a grant change on time.

BAM 405, pp. 3-4.

The Department corrects the information and re-runs eligibility to authorize the supplement regardless of whether DHS or the client discovered the error. BAM 405, p. 4. Based on the above information, the evidence presented that Claimant's FIP closure for May 2014 to June 2014 was based on agency error. Therefore, the Department must issue supplemental benefits for the time period of May 1, 2014 to June 30, 2014 for the under-issuance in accordance with Department policy. See BAM 405, pp. 1-6.

It should be noted that Claimant also argued that her FAP and/or FIP allotments were also improper for subsequent benefit months after her hearing request. This ALJ lacks the jurisdiction to address Claimant's dispute with the subsequent benefit months because it is after her hearing request. See BAM 600, pp. 4-6. Claimant can attempt to file another hearing request to dispute the additional benefits months. See BAM 600, pp. 4-6.

### **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) did not act in accordance with Department policy when it improperly closed Claimant's FIP benefits for May 1, 2014 to June 30, 2014; and (ii) acted in accordance with Department policy when it properly issued Claimant's FIP benefits for July 1, 2014 to July 31, 2014.


Accordingly, the Department's FIP decision is AFFIRMED IN PART with respect to July 2014 and REVERSED IN PART with respect to May 2014 to June 2014.

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 remove Claimant's first FIP sanction (if not already completed);

2. The Department shall reinstate Claimant's FIP case from May 1, 2014 to June 30, 2014;
3. The Department shall supplement for FIP benefits that Claimant was entitled to receive from May 1, 2014 to June 30, 2014 (group size of three); and
4. The Department shall notify Claimant in accordance with Department policy.

**IT IS ALSO ORDERED** that Claimant's FAP hearing request is **DISMISSED**.



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**Eric J. Feldman**  
Administrative Law Judge  
for Nick Lyon, Interim Director  
Department of Human Services

Date Signed: February 18, 2015

Date Mailed: February 18, 2015

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.

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 48909-8139

CC:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
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