

**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.: 14-006448  
Issue No.: 1007; 3008; 5000  
Case No.: ██████████  
Hearing Date: August 4, 2014  
County: WAYNE-DISTRICT (55)

**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 August 4, 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 Manager.

**ISSUES**

Did the Department properly calculate Claimant's Family Independence Program (FIP) group composition and allotment effective June 1, 2014, ongoing?

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment in the amount of \$741 effective July 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. Claimant is an ongoing recipient of FAP benefits. See Exhibit 1, p. 11.
2. As of October 16, 2013, Claimant has been in ineligible grantee status regarding the minor who receives FIP benefits (group size of one) in question. See Exhibit 1, pp. 9-10.
3. Claimant has legal guardianship of the minor who has been receiving FIP monthly ineligible grantee payment assistance as of October 16, 2013. See Exhibit 1, pp. 9-10 and Exhibit A, p. 1.

4. On June 9, 2014, Claimant submitted a redetermination (for the FAP and Medical Assistance (MA) programs) to the Department. See Exhibit 2, pp. 1-6.
5. In the redetermination, Claimant indicated that her daughter is employed and that she receives child support. See Exhibit 2, p. 4. Claimant also notated that she is in bankruptcy and the amount of the expense is \$473. See Exhibit 2, p. 5.
6. On June 12, 2014, the Department sent Claimant a Notice of Case Action notifying her that she was approved for FAP benefits in the amount of \$741 effective July 1, 2014, ongoing. See Exhibit 1, pp. 5-6.
7. On June 27, 2014, Claimant filed a hearing request, protesting her FIP benefits, FAP allotment, and State Emergency Relief (SER) benefits. See Exhibit 1, pp. 2-4.

### **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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049.

### **SER benefits**

On June 27, 2014, Claimant filed a hearing request, protesting her SER benefits. See Exhibit 1, pp. 2-4. Specifically, Claimant testified that she applied for SER assistance for home property taxes. Moreover, Claimant testified that she last applied for SER

assistance in March 2013 and received a subsequent denial notice for the SER application.

Based on the above information, this hearing lacks the jurisdiction to address Claimant's SER hearing request. 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 (July 2014), p. 6. As such, Claimant's hearing request is more than 90 calendar days after her SER application and denial notices. Therefore, Claimant's SER hearing request (dated June 27, 2014) is DISMISSED for lack of jurisdiction.

### **FIP benefits**

On June 27, 2014, Claimant filed a hearing request, protesting her FIP benefits. See Exhibit 1, pp. 2-4. During the hearing, Claimant argued that the minor whom she has legal guardianship over should receive additional FIP benefits. Based on Claimant's testimony, it appeared that she discovered the possibility of an increase in her FIP allotment if she was a member of the FIP program group. Thus, Claimant filed a hearing request, disputing the FIP benefits. This hearing decision will address Claimant's concern with the FIP allotment and group composition based on FIP changes in need (i.e., grantee status). See BAM 105 (April 2014), p. 9 and BEM 515 (July 2013), pp. 3-5.

As of October 16, 2013, Claimant has been in ineligible grantee status regarding the minor who receives FIP benefits (group size of one) in question. See Exhibit 1, pp. 9-10. Claimant has legal guardianship of the minor who has been receiving FIP monthly ineligible grantee payment assistance as of October 16, 2013. See Exhibit 1, pp. 9-10 and Exhibit A, p. 1. RFT 210 states that the ineligible grantee payment standard for a group size of one is \$158. RFT 210 (December 2013), p. 1. If, for example, Claimant is considered an eligible grantee, the maximum eligible grantee payment standard for a group size of two (Claimant and minor) is \$403. See RFT 210, p. 1.

During the hearing, though, the Department was unable to testify as to why Claimant was an ineligible grantee. If Claimant is considered an eligible grantee, it should be noted that her income would come into consideration and the payment standard could even be lower. See BEM 210 (July 2013), pp. 1-2 and 4; BEM 515, pp. 1-5; and BEM 518 (July 2013), pp. 1-6. It should also be noted that Claimant testified she was the minor's aunt from a previous marriage.

Group composition is the determination of which individuals living together are included in the FIP eligibility determination group (EDG) / program group and the FIP certified group (CG). BEM 210, p. 1.

The Department uses the eligible grantee payment standard when the grantee is a member of the CG (EDG participation status of eligible adult) and the group is participating in the Kinship Care Pilot. BEM 515, p. 2.

The Department uses the ineligible grantee payment standard when the grantee is not a member of the CG. BEM 515, p. 2. This grantee status includes grantees who are any of the following: (i) SSI recipients; (ii) non-parent caretakers who are not eligible for cash assistance or choose not to request cash assistance; (iii) unrelated caretakers who receive FIP based solely on the presence of a child placed in the home by children's services; or (iv) recipients of Children's Services Independent Living Stipend. BEM 515, pp. 2-3.

Based on the foregoing information and evidence, the Department failed to provide evidence or testimony as to how it determined Claimant's ineligible grantee status. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy. The Department will redetermine the FIP group composition/Claimant's grantee status effective June 1, 2014, ongoing, in accordance with Department policy. It should be noted that Claimant filed the hearing request disputing the FIP benefits on June 27, 2014. See Exhibit 1, pp. 2-4. Therefore, the Department will only determine Claimant's FIP eligibility based on the month she filed the hearing request for June 2014, ongoing. See BAM 600, pp. 4-6.

### **FAP benefits**

Claimant is an ongoing recipient of FAP benefits. See Exhibit 1, p. 11. On June 9, 2014, Claimant submitted a redetermination (for the FAP and MA programs) to the Department. See Exhibit 2, pp. 1-6. In the redetermination, Claimant indicated that her daughter is employed and that she receives child support. See Exhibit 2, p. 4. Claimant also noted that she is in bankruptcy and the amount of the expense is \$473. See Exhibit 2, p. 5. On June 12, 2014, the Department sent Claimant a Notice of Case Action notifying her that she was approved for FAP benefits in the amount of \$741 effective July 1, 2014, ongoing. See Exhibit 1, pp. 5-6. On June 27, 2014, Claimant filed a hearing request, protesting the FAP allotment. See Exhibit 1, pp. 2-4.

It was not disputed that the certified group size is seven and that there are no senior/disabled/disabled veteran (SDV) group members. The Department presented the July 2014 FAP budget for review. See Exhibit 1, pp. 7-8.

The Department calculated Claimant's daughter's gross earned income amount to be \$1,035. See Exhibit 1, p. 7. During the hearing, the Department testified that the redetermination submitted only indicated the daughter was employed and she did not provide any pay stubs. See Exhibit 2, pp. 1-6. As such, the Department obtained the daughter's weekly gross pay amounts from The Work Number to obtain the \$1,035 calculation. Claimant agreed with the calculation based on the weekly earnings from May 2014; however, argued that her daughter's income fluctuates. For July 2014, ongoing, Claimant testified that her daughter's income reduced to approximately \$650 a month (gross).

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not

received but expected). BEM 505 (July 2013), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, pp. 7-8.

The Department uses income from the past 60 or 90 days for fluctuating or irregular income, if the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month. BEM 505, pp. 5-6.

Based on the above information, the Department properly calculated Claimant's daughter's gross earned income. A review of the redetermination indicated that Claimant only stated her daughter was employed and failed to provide pay stubs or any indication of fluctuating income. As such, the Department acted in accordance with Department policy when it determined the daughter's gross income to be \$1,035 based on the consolidated inquiries (i.e., The Work Number). See BEM 501 (January 2014), pp. 9-14.

Additionally, the Department calculated Claimant's unearned income amount to be \$323, which comprised of her child support income. See Exhibit 1, p. 7. In this case, the Department failed to provide documentary evidence of the child support income that Claimant received. However, again, Claimant did not dispute the child support income received at the time of the redetermination. Claimant testified that she was receiving \$323 a month in child support income, but that it reduced to approximately \$123 effective July 1, 2014.

For child support income, the Department uses the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505, p. 3. The Department includes the current month if all payments expected for the month have been received. BEM 505, p. 3. Do not include amounts that are unusual and not expected to continue. BEM 505, p. 3.

Based on the above information, the Department properly calculated Claimant's unearned income (child support). As stated previously, Claimant agreed at the time the redetermination was submitted she received \$323 monthly in child support income. As such, the Department acted in accordance with Department policy when it properly calculated the child support income. Claimant indicated a reduction in child support income effective July 2014; however, a review of the redetermination provided no information of such a reduction. See Exhibit 2, p. 4.

Also, the Department calculated a total income amount of \$1,358 (\$1,035 earned income plus \$323 unearned income). See Exhibit 1, p. 7. The Department then applied

a 20 percent earned income deduction. BEM 550 (February 2014), p. 1. Twenty percent of \$1,035 is \$207, which results in a post earned income of \$1,151 (\$1,358 total income amount minus \$207 earned income deduction). See Exhibit 1, p. 7. The Department then applied the \$218 standard deduction applicable to Claimant's group size of seven. RFT 255 (December 2013), p. 1. Once the Department subtracts the \$218 standard deduction, this results in an adjusted gross income of \$933. See Exhibit 1, p. 7.

Additionally, for groups with no SDV member(s), the Department uses excess shelter up to the maximum of \$478. See BEM 554 (May 2014), p. 1 and RFT 255, p. 1. The July 2014 FAP budget from the Notice of Case Action dated June 12, 2014, indicated that Claimant's housing cost was \$0. See Exhibit 1, p. 6. However, Claimant testified she filed for bankruptcy and pays monthly back property taxes in the amount of \$561.73. Claimant provided as evidence a tax statement showing property taxes owed from tax years 2008 to 2012. See Exhibit A, p. 2.

Moreover, the Department testified that Claimant did not indicate and/or provide evidence of her property taxes. A review of the redetermination, though, did indicate under the change in address and housing expense section that Claimant notated she is in bankruptcy and the amount of expense is \$473. See Exhibit 2, p. 5. Furthermore, on or around March 2014, Claimant indicated that her previous DHS office had the proper documentation showing her property tax information.

The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, p. 12. Property taxes, state and local assessments and insurance on the structure are allowable expenses. BEM 554, p. 13. The Department verifies the expense and the amount for housing expenses, property taxes, assessments, insurance and home repairs. BEM 554, p. 14.

Based on the foregoing information, the Department properly calculated Claimant's housing expenses to be zero. Even though Claimant did indicate some form of bankruptcy expense, the redetermination specifically states to provide proof of the expense. See Exhibit 2, p. 5. The evidence presented that Claimant did not provide proof of her property tax expense at the time of redetermination. Therefore, the Department properly did include such a deduction.

Furthermore, the Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 14-15. The utility standard of \$553 encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount. RFT 255, p. 1 and see also BEM 554, p. 15 (changes effecting the mandatory heat and utility standard effective May 1, 2014).

The Department then subtracts the \$87 excess shelter deduction from the \$933 adjusted gross income, which results in a net income of \$846. See Exhibit 1, pp. 7-8. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on

Claimant's group size and net income, the Department properly determined that Claimant's FAP benefit issuance is found to be \$741 effective July 1, 2014, ongoing. RFT 260 (December 2013), p. 11.

### **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) failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to provide evidence or testimony as to how it determined Claimant's ineligible grantee status effective June 1, 2014; and (ii) acted in accordance with Department policy when it properly calculated Claimant's FAP benefits effective July 1, 2014.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FAP benefits and **REVERSED IN PART** with respect to FIP benefits.

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 the FIP group composition/Claimant's grantee status effective June 1, 2014, ongoing, in accordance with Department policy;
2. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from June 1, 2014, ongoing; and
3. Notify Claimant in writing of its FIP decision in accordance with Department policy.

**IT IS ALSO ORDERED** that Claimant's SER hearing request (dated June 27, 2014) is **DISMISSED** for lack of jurisdiction.

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

Date Signed: **8/12/2014**

Date Mailed: **8/12/2014**

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.

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]