

**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.: 14-008271
Issue No.: 1000;3008;6000
Case No.: ██████████
Hearing Date: October 15, 2014
County: WAYNE-DISTRICT 17

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 October 15, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Manager.

ISSUE

Did the Department properly process Claimant's Child Development and Care (CDC), 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 CDC and FAP benefits.
2. Claimant became the foster parent of a child in April 2013.
3. Claimant submitted a change report to have the child added to her FAP group. (Exhibit 3)
4. There was no negative action taken with respect to Claimant's FIP benefits.
5. On July 14, 2014, Claimant submitted a hearing request disputing the Department's actions.

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).

CDC

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The hearing was requested to dispute the Department's action taken with respect to Claimant's CDC benefits. Shortly after commencement of the hearing, Claimant testified that she now understood the actions taken by the Department and that she did not wish to proceed with the hearing with respect to her CDC benefits, as the issue she requested a hearing on had been resolved. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request.

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. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (July 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 requested a hearing concerning an application for FIP benefits that she stated she submitted at the end of June 2014 or beginning of July 2014, although she could not recall the exact date. Claimant stated that she was verbally informed by her case worker that the application had been denied but she was never sent a Notice of Case Action or other communication from the Department regarding the application.

At the hearing, the Department testified that it had no record of a FIP application submitted by Claimant in either June 2014 or July 2014. The Department stated that it had a record of a FIP application submitted by Claimant on July 2, 2013 and that the application was denied on July 30, 2013. The Department presented a case search summary in support of its testimony. (Exhibit 1). The Department further stated that the only FIP application registered for Claimant in 2014 was one submitted on September 4, 2014, which is still pending. The Department presented a program request summary in support of its testimony. (Exhibit 2).

Claimant did not have any additional identifying or supporting information to establish that she did submit a completed FIP application to the Department in June 2014 or July 2014; therefore, it was not established that the Department failed to properly process Claimant's FIP application. As such, there was no negative action taken by the Department with respect to Claimant's FIP benefits and Claimant's hearing request concerning the FIP is DISMISSED for lack of jurisdiction. BAM 600, pp.4-6.

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 requested a hearing disputing the Department's actions with respect to her FAP benefits. At the hearing, Claimant testified that in April 2014, she became the foster parent to a relative child and sought to have him added to her FAP group. Claimant testified that she submitted a change report to the Department in April 2014 that was not timely processed and that she disputed the Department's calculation of her FAP benefits. Claimant credibly testified that she resubmitted the change report on June 6, 2014, and included a handwritten note that this was the second submission of the change report since April 20, 2014. The Department stated that it received Claimant's

change report on June 6, 2014 and that Claimant's FAP group was updated to include the child effective July 2014. The change report was provided for review at the hearing, and does reflect Claimant's handwritten note. (Exhibit 3).

For non-income changes of the FAP, the Department is to complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs ten days after the change is reported. BAM 220 (January 2014), p. 9. A member add that increases benefits is effective the month after it is reported. BEM 550 (February 2014), p. 4; BEM 212 (February 2014), p. 9.

In this case, although Department testified that Claimant's FAP budget was recalculated to include the child as a group member effective July 2014, Claimant demonstrated that she submitted a change report to have her foster child added to her FAP case in April 2014. Therefore, the Department failed to timely process the change report and member add. Further, the Department did not present any evidence concerning the amount of FAP benefits for which Claimant was approved, nor were any FAP budgets provided to allow the undersigned to make a determination as to whether Claimant received the correct amount of benefits based on her increased group size.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the hearing request with respect to CDC and 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. Process Claimant's April 2014, change report;
2. Recalculate Claimant's FAP budget to reflect the increased group size in accordance with Department policy;
3. Issue supplements to Claimant for FAP benefits from the effective date of the April 2014 change report, ongoing; and

4. Notify Claimant in writing of its decision.



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

Date Signed: **10/21/2014**

Date Mailed: **10/21/2014**

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

