

**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.: 14-008834
Issue No.: 1000, 3002
Case No.: ██████████
Hearing Date: September 10, 2014
County: WAYNE (76)

ADMINISTRATIVE LAW JUDGE: Jacquelyn McClinton

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 September 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Specialist and ██████████, PATH Coordinator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits for failure to complete the Redetermination?

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 FAP recipient.
2. In December 2013, Claimant informed the Department that she would have a change of address effective January 2014.
3. The Department failed to update Claimant's address information.
4. On February 11, 2014, the Department sent Claimant a Redetermination Telephone Interview and a Redetermination to Claimant's previous address.
5. Claimant did not receive the documents.

6. On March 12, 2014, the Department sent Claimant a Notice of Missed Interview to Claimant's previous address which notified her that her FAP benefits would close if she failed to reschedule the interview by March 31, 2014.
7. Claimant did not receive the Notice of Missed Interview.
8. On July 10, 2014, Claimant filed a Request for Hearing 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).

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.

FIP

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. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (July 2013), p. 5, 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 this case, Claimant requested a hearing to dispute the Department's action taken with respect to the FIP benefits. The Department sent Claimant a Notice of Case Action notifying that her FIP case would close effective December 1, 2013. Claimant acknowledged receiving the Notice of Case Action. Claimant further stated that she was unaware that she could request a hearing. However, Claimant testified that she was not overly concerned about her FIP benefits because she was receiving financial assistance from her mother and she was also receiving FAP benefits. Claimant stated when her mother was unable to continue providing financial assistance and when her FAP case closed, she re-applied for FIP benefits. It is found that Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction. BAM 600, p. 5.

FAP

Claimant was an ongoing FAP recipient. In December 2014, Claimant notified the Department that she had moved. On February 11, 2014, the Department sent Claimant a Redetermination Telephone Interview Notice as well as a Redetermination. The telephone interview was scheduled for March 12, 2014. Both the notice of telephone interview and the Redetermination were sent to Claimant's old address. As such, Claimant did not receive the documents. On March 12, 2014, the Department sent Claimant a Notice of Missed Interview, again to the incorrect address. The Notice of Missed Interview instructed Claimant to reschedule her interview by March 31, 2014 and that failure to do so would result in a denial of benefits. Claimant did not receive the Notice of Missed Interview and her FAP benefits ended on March 31, 2014.

Claimant did not file a Request for hearing until July 10, 2014. Because Claimant did not receive the Notice of Missed Interview, which was the only notice the Department sent regarding the closure of her FAP benefits, it is found that Claimant's Request for Hearing is timely. It is further found that the Department improperly closed Claimant's FAP case as it had the correct mailing address and sent time-sensitive documents to Claimant's previous address.

Child Support Sanction

During the hearing, the Department confirmed that Claimant was placed in non-cooperation status with the Office of Child Support in December 2013. However, Claimant's benefits were restored to previous levels beginning January 2014, suggesting that she cured any issues. The Department further confirmed that it is aware of identifying information regarding the father of Claimant's child. The Department testified the OCS placed Claimant in non-cooperation status again on May 14, 2014. The Department stated that it was unaware of any reason that would have

caused the non-cooperation status since Claimant had already provided identifying information regarding the father of her child.

Claimant reapplied for FAP benefits on June 20, 2014. She received a prorated amount for June and full benefits in July 2014. The Department testified that although the child support sanction is dated May 14, 2014, it was likely placed on Claimant's record sometime after she received her July FAP benefits. As a result, Claimant was removed from the FAP group and received \$189.00 for August 2014 and is scheduled to receive \$189.00 for September 2014. Claimant is entitled to notice regarding the reduction in her benefits. Because her benefits were not affected until August 2014, it is likely that the notice regarding the reduction went out in late July 2014 or August 2014.

The hearing request that is the subject of this hearing was dated well before the notice regarding the reduction due to a child support sanction was entered. and therefore the undersigned does not have jurisdiction to address the child support sanction. Claimant testified that she believed that she provided the Office of Child Support all the requested information. If Claimant believes that her FAP benefits were improperly reduced, she can request a hearing regarding the reduction of her benefits effective August 1, 2014, ongoing. Claimant should be aware that the below order to reinstate benefits will likely only reinstate her FAP benefits and supplements issued through June 2014 until the child support sanction is removed from her record.

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 policy when it closed Claimant's FAP benefits effective April 1, 2014.

DECISION AND ORDER

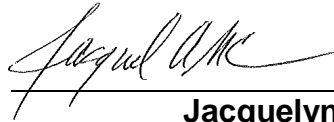
Accordingly, the Department's decision is **DISMISSED** in part and **REVERSED** in part.

Claimant's Request for Hearing relating to her FIP benefits is hereby DISMISSED for lack of jurisdiction.

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. Reinstate Claimant's FAP benefits effective April 1, 2014, ongoing; and

2. Issue supplements for FAP benefits effective April 1, 2014 for the monthly amount Claimant received prior to closure.



Jacquelyn McClinton
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/12/2014**

Date Mailed: **9/12/2014**

JAM / 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

