

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-008892
Issue No.: 1000, 3001
Case No.: ██████████
Hearing Date: October 16, 2014
County: WAYNE-DISTRICT 35

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. 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 October 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Hearing Facilitator.

ISSUE

Did the Department properly calculate Claimant's monthly benefit amount for Food Assistance Program 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 applied for FAP benefits.
2. On July 11, 2014, the Department sent Claimant a Notice of Case Action notifying him that he had been approved for \$12.00 per month from June 19, 2014 through June 30, 2014 and \$29.00 per month from July 1, 2014 through May 31, 2016.
3. The Department subsequently increased Claimant's FAP benefits to \$49.00 per month and then again to his current amount of \$55.00 per month.
4. On July 22, 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

The hearing was requested to dispute the Department's action taken with respect to FIP program benefits. Shortly after commencement of the hearing, Claimant testified that he never applied for FIP benefits and that he had checked the box corresponding to FIP benefits on his Request for Hearing in error. As such, Claimant stated that he did not wish to proceed with a hearing relating to FIP benefits. The Request for Hearing relating to FIP benefits was withdrawn. The Department agreed to the dismissal of the hearing request as it related to FIP benefits. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing regarding FIP benefits is, hereby, **DISMISSED**.

FAP

Additionally, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2014), pp. 1 – 4. The Claimant requested a hearing protesting the amount of his FAP benefits as he believed the amount approved by the Department was insufficient to meet the household needs. Claimant applied for FAP benefits on June 20, 2014. On July 11, 2014, the Department sent Claimant a Notice of Case Action notifying him that he had been approved for FAP benefits in the amount of \$29.00 per month effective July 1, 2014, ongoing. The Department testified that it recalculated Claimant's benefits and he was approved for FAP benefits in the amount of \$49.00 per month. The Department stated that it again calculated Claimant's benefits and determined that he was entitled to receive \$55.00 per month effective September 13, 2014.

Claimant testified that he receives \$684.00 in social security benefits. The Department confirmed that Claimant does not have any additional income. The Department stated, and the Claimant confirmed, that he does not pay any utility costs. The Department failed to present a budget with respect to the previous and current amount of FAP benefits. Further, Claimant testified that he has contacted his worker on several occasions in an effort to have the calculations explained to him. Claimant testified that

he had never seen his worker or received a return call from his worker. Accordingly, because the Department failed to present a budget as to how Claimant's FAP benefits were calculated, it is not possible to determine whether Claimant's FAP benefits were calculated properly. The Department bears the burden of establishing that it properly calculated Claimant's benefits and it failed to meet this burden.

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 determined Claimant's eligibility for FAP benefits.

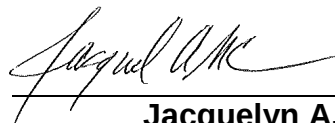
DECISION AND ORDER

Pursuant to the withdrawal of the hearing request filed in this matter relating to FIP benefits, the Request for Hearing relating to FIP benefits only is, hereby, **DISMISSED**

The Department's decision relating to Claimant's FAP benefits 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. Redetermine Claimant's eligibility for FAP benefits from June 19, 2014, ongoing;
2. Issue FAP supplements to Claimant that he was eligible to receive as of June 19, 2014, ongoing; and
3. Notify Claimant in writing with a Notice of Case Action of its decision.



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

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

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

JAM / cl

CC: