

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

IN THE MATTER OF:

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

Reg No.: 2014-16016
Issue No.: 1001, 3001
Case No.: ██████████
Hearing Date: January 13, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Monday, January 13, 2014. Claimant appeared and testified. ██████████ interpreted Claimant's testimony. Participating on behalf of the Department of Human Services (Department) was ██████████

ISSUE

Whether the Department acted properly when it sanctioned Claimant's cash assistance (FIP) case due to a 3-month non-compliance sanction?

Whether the Department properly calculated Claimant's food assistance program (FAP) benefits as of November 1, 2013, 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 was a FIP recipient.
2. Claimant's FIP case was terminated due to the imposition of a 3-month sanction due to the failure to comply with work-related activities (see registration number 2013-43561). (Exhibit 1)

3. The 3-month sanction was for the months of May through July.
4. Claimant did not re-apply for FIP benefits.
5. Claimant was an ongoing FAP recipient.
6. On October 5, 2013, the Department sent a Notice of Case Action to Claimant informing him that his FAP benefits would decrease to \$ [REDACTED] as of November 1, 2013. (Exhibit 2)
7. On October 24, 2013, the Department received Claimant's written request for hearing regarding his FIP and FAP benefits.
8. On November 25, 2013, the Department received Claimant's second written request for hearing regarding his FIP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables (RFT).

As a preliminary matter, Claimant requested a hearing regarding reinstatement of his FIP benefits and the reduction of his FAP benefits. Each program will be separately addressed.

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

Reinstatement restores a closed program to active status without completion of a new application. BAM 205 (July 2013), p. 1. Closed programs may be reinstated if closed in error; closed because correct information was not entered; timely hearing request; redetermination packet not logged in; hearing decision ordered reinstatement; complied with program requirements before negative action date; DHS -1046 manually sent and due date is after the last day of the 6th month; or court ordered reinstatement. BAM 205, p. 1.

In this case, Claimant's FIP benefits were closed due to the imposition of a 3-month sanction for non-compliance with work-related activities. The sanctioned months were May, June, and July 2013. Claimant never re-applied for FIP benefits mistakenly believing that the benefits would be automatically reinstated. As cited above, policy

does not provide for automatic reinstatement at the end of a FIP sanction. The individual must reapply. Claimant did not reapply therefore the Department was not obligated to take any action regarding FIP benefits. Accordingly, the Department's actions are upheld.

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The FIP grant is removed from the FAP budget at the end of the FIP penalty period. BEM 233B (July 2013), p. 3.

In this case, the Department sent a Notice of Case Action on October 5, 2013, notifying Claimant that his FAP benefits would be reduced to [REDACTED]. Claimant requested a hearing contesting the reduction. During the hearing, no evidence was presented such as a FAP budget that would allow the undersigned to make a determination of whether the FAP allotment was correct. Additionally, it was unknown whether, once the FIP sanction ended in July 2013, the FIP benefit amount was not included in the FAP budget. In light of the foregoing, the Department failed to meet its burden that it acted in accordance with Department policy when it calculated Claimant's FAP budget as of November 1, 2013. Accordingly, the Department's FAP determination is REVERSED.

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, finds the Department established it acted in accordance with department policy when it did not reinstate Claimant's FIP benefits without an application be filed and processed. It is further found that the Department failed to establish it acted in accordance with Department policy when it reduced Claimant's FAP benefits as of November 1, 2013.

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. Recalculate Claimant's FAP benefit as of November 1, 2013, ongoing.
2. Notify Claimant of the FAP determination in writing and in accordance with Department policy.

3. Supplement for lost FAP benefits (if any) that Claimant was entitled to receive if otherwise eligible and qualified in accordance with Department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 31, 2014

Date Mailed: February 3, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

CMM/tm

cc:

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