

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

IN THE MATTER OF:

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

Reg No.: 2014-16681
Issue No.: 1000, 3008
Case No.: ██████████
Hearing Date: January 9, 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 Thursday, January 9, 2013. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████.

ISSUE

Whether the Department properly processed Claimant's Family Independence Program (FIP) benefits.

Whether the Department properly processed Claimant's Food Assistance Program (FAP) benefit.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In May 2013, the Department closed Claimant's FIP case as a result of an imposed 3-month FIP sanction that expired in July 2013.
2. Claimant is an ongoing FAP recipient.

3. In early June 2013, Claimant notified Department of the birth of his son on May 29, 2013.
4. The Department did not add the son on Claimant's FAP case.
5. Claimant did not reapply for FIP benefits.
6. On December 3, 2013, the Department received Claimant's written request for hearing.

CONCLUSIONS OF LAW

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

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

FIP Benefits

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.

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 provides in relevant part:

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. [R 400.903(1).]

In this case, Claimant's FIP case was subject to a 3-month sanction for the months of May, June, and July 2013. Claimant did not re-apply for FIP benefits believing that FIP payments would be reinstated automatically. Further, Claimant stated he thought the Department should have sent a letter to inform Claimant to re-apply. During the hearing, it was explained that the reinstatement of FIP benefits was not automatic, nor was the Department required to send a letter to instruct him to reapply. At this point, because Claimant did not apply for benefits, he was not aggrieved by the Department's

actions resulting in suspension, reduction, discontinuance, or termination of assistance. As such, Claimant's request for hearing regarding FIP benefits is DISMISSED.

FAP benefits

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.

For FAP purposes, parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212 (November 2012), p. 1. For FAP purposes, the Department must act within 10 days of becoming aware of a change for changes reported by means other than a tape match. BAM 220 (November 2012), p. 5. For FAP increases, the change must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, p. 5.

In this case, Claimant reported during the first week of June, the birth of his son on [REDACTED]. As a result, Claimant's group size should have increased accordingly as of July 1st. This was not done. As such, the Department failed to establish it acted in accordance with Department policy when it failed to process Claimant's reported increase in group composition. The Department's failure to do so is not upheld.

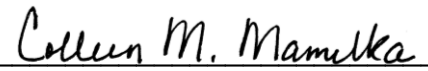
DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds Claimant's request for hearing regarding FIP benefits is DISMISSED as Claimant never submitted an application from which the Department was required to act upon. In addition, the Department failed to establish it acted in accordance with department policy when it failed to act on Claimant's reported increase to his FAP group.

Accordingly, it is ORDERED:

1. Claimant's request for hearing regarding FIP benefits is DISMISSED.
2. The Department's failure to add Claimant's son to the FAP group is REVERSED.
3. The Department shall initiate recalculation of Claimant's FAP case as of July 1, 2013, ongoing, to include Claimant's son, in accordance with Department policy.

4. The Department shall notify Claimant of the determination, in accordance with Department policy.
5. The Department shall supplement for lost FAP benefits that Claimant was entitled to receive if otherwise eligible and qualified, in accordance with Department policy.



Colleen M. Mamelka

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

Date Signed: January 17, 2014

Date Mailed: January 17, 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]
[REDACTED]