

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

IN THE MATTER OF:



Reg. No.: 2014-30014
Issue No(s): 1001; 3008
Case No.: [REDACTED]
Hearing Date: March 27, 2014
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 March 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Family Independence Manager.

ISSUES

Did the Department properly deny Claimant's Family Independence Program (FIP) application effective November 16, 2013?

Did the Department properly deny Claimant's FIP application effective January 1, 2014, ongoing?

Did the Department properly calculate Claimant's FAP benefits effective November 1, 2013, ongoing?

Did the Department properly process Claimant's change report (employment stopping)?

FINDINGS OF FACT

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

1. Effective November 2013, Claimant received FAP benefits in the amount of \$245. See Exhibit 3.

2. On October 31, 2013, Claimant applied for FIP benefits and indicated in her application that she was fired from her employment. See Exhibit 3.
3. On November 20, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective November 16, 2013, ongoing, due to excess income. See Exhibit 2.
4. On December 13, 2013, Claimant applied for FIP benefits. See Exhibit 2.
5. On December 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective January 1, 2014, ongoing. See Exhibit 2.
6. On February 24, 2014, Claimant filed a hearing request, protesting her FIP denial and FAP allotment. See Exhibit 1.

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, 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.

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.

Preliminary matter

As a preliminary matter, Claimant applied for FIP benefits on January 21, 2014. See Hearing Summary, Exhibit 1. On February 13, 2014, Claimant's application was processed and the Department denied her application due to excess income. See Hearing Summary, Exhibit 1. Upon review of her case, the Department discovered that Claimant did not have income and that she did not report it in the application. See Hearing Summary, Exhibit 1. Thus, the Department stopped the income and reregistered the FIP application back to the original application date of January 21, 2014. See Hearing Summary, Exhibit 1. Claimant testified that she received FIP benefits from mid-February 2014, ongoing. Thus, this hearing will not address

Claimant's FIP application dated January 21, 2014. Rather, Claimant is disputing her previous FIP applications from October and December 2013.

Moreover, Claimant discovered that her FAP benefits budgeted her earned income even though she did not receive. Thus, Claimant was also disputing her FAP benefits from October 2013, ongoing.

FIP application for October 2013

In this case, on October 31, 2013, Claimant applied for FIP benefits. See Exhibit 3. On November 20, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective November 16, 2013, ongoing, due to excess income. During the hearing, Claimant testified that she was disputing the October 2013 application denial. However, Claimant did not file a request for hearing to contest the Department's action until February 24, 2014. See Exhibit 1. Claimant's FIP denial effective November 16, 2013, ongoing, will not be address for lack of jurisdiction. Claimant's hearing request was timely filed within ninety days of the Notice of Case Action (dated November 20, 2013) and therefore, will not be addressed in this hearing for lack of jurisdiction. BAM 600 (March 2014), p. 6.

FIP application for December 2013

On December 13, 2013, Claimant applied for FIP benefits. See Exhibit 2. On December 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective January 1, 2014, ongoing. See Exhibit 2. A review of the Notice of Case Action did not provide any denial reason. The Department believed that the denial reason was the same as the application dated January 21, 2014; however, it was not certain.

The local office and client or AHR will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600, p. 36. Both the local office and the client or AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 36. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 39.

If the group is ineligible or refuses to cooperate in the application process, the Department certifies the denial within the standard of promptness to avoid receiving an overdue task in its system. BAM 115 (July 2013), p. 23.

The Department sends a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 23.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly denied Claimant's FIP application effective January 1, 2014, ongoing. BAM 600, pp. 36 and 39. The Department failed to present evidence on why it denied Claimant's FIP application. Moreover, the Notice of Case Action failed to provide the denial reasons. See Exhibit 2. This is contrary to Department policy, which requires that the Department send a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 23. As such, the Department will reregister Claimant's FIP application dated December 13, 2013, in accordance with Department policy. BAM 600, pp. 36 and 39 and BAM 115, p. 23.

FAP benefits

At the hearing, Claimant also disputed her FAP allotment. The Department continued to budget her employment income even though she was not employed. On October 31, 2013, Claimant applied for FIP benefits and indicated in her application that she was fired from her employment. See Exhibit 3. Claimant testified that this was the first time she notified the Department of her employment ending. The Department acknowledged this notification of her employment ending in the October 2013 application. Moreover, the Department testified that Claimant last received her pay stub in October 2013. The Department testified it believed it continued to budget her earned income because there was no verification that it had stopped.

Additionally, the Department's testimony appeared to indicate that it stopped budgeting her income effective March 2014, ongoing. The Department provided the March 2014 FAP budget, which included no earned income. See Exhibit 3. However, the Department continued to budget Claimant's earned income effective November 1, 2013, ongoing. A review of the November 2013 FAP budget did indicate earned income being budgeted. See Exhibit 3.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (October 2013), p. 9. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 9. Earned income reporting requirements are limited to the starting or stopping employment. BAM 105, p. 9.

For FAP cases, the Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2013), p. 6. Changes which result in an increase in the household's benefits 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. 6.

For stopping income, the Department budgets the final income expected to be received in the benefit month. BEM 505 (July 2013), p. 7. The Department uses the best available information to determine the amount of the last check expected. BEM 505, p. 7. The Department uses information from the source and from the client. BEM 505, p. 7. The Department removes stopped income from the budget for future months. BEM

505, p. 7. It should be noted that the Department verified the income stopped. See Hearing Summary, Exhibit 1 and BEM 505, p. 13.

Based on the foregoing information and evidence, the Department failed to process Claimant's change report (income stopping) for her FAP benefits effective November 1, 2013, ongoing, in accordance with Department. Claimant properly reported to the Department that her employment ended in the FIP application dated October 31, 2013. See Exhibit 3 and BAM 105, p. 9. However, the Department continued to budget her employment income effective November 1, 2013, ongoing. See November 2013 budget, Exhibit 3. At this point, the Department did not present evidence that it requested verification of her employment ending. See BAM 130 (July 2013), p. 3 and BEM 505, p. 13.

Additionally, it appears that the Department partially removed Claimant's earned income for her FAP budgets in 2014; however, it did remove it for the remainder of 2013. See Exhibit 3. For stopping income, the Department budgets the final income expected to be received in the benefit month. BEM 505, p. 7. The Department removes stopped income from the budget for future months. BEM 505, p. 7. As previously stated, the Department verified Claimant's income stopped and testified that her last pay stub occurred in October 2013. Therefore, the Department improperly calculated Claimant's FAP benefits effective November 1, 2013, ongoing, due to its failure to process her change report timely and remove her stopped income from future months. BAM 105, p. 9 and BEM 505, p. 13. The Department will recalculate Claimant's FAP benefits effective November 1, 2013, ongoing, in accordance with Department policy. BEM 505, p. 13.

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, if any, finds that the Department (i) failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly denied Claimant's FIP application effective January 1, 2014, ongoing; and (ii) did not act in accordance with Department policy when it improperly calculated Claimant's FAP benefits effective November 1, 2013, ongoing.

Accordingly, the Department's FIP and 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. Reregister the FIP application dated December 13, 2013;
2. Begin reprocessing the application/recalculating the FIP budget for January 1, 2014, ongoing, in accordance with Department policy;

3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from January 1, 2014, ongoing; and
4. Begin recalculating the FAP budget for November 1, 2013, ongoing, in accordance with Department policy;
5. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from November 1, 2013, ongoing; and
6. Notify Claimant in writing of its FIP and FAP decisions in accordance with Department policy.



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

Date Signed: April 1, 2014

Date Mailed: April 1, 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:

2014-30014/EJF

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

EJF/tlf

cc:

