

**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.: 2014-32819
Issue No(s): 1000; 2000; 3008
Case No.: ██████████
Hearing Date: April 16, 2014
County: Wayne (57)

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 April 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████, Eligibility Specialist, and ██████████, Family independence Manager.

ISSUES

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective April 1, 2014, ongoing, due to excess income?

Did the Department properly process Claimant's change report (member delete)?

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 an ongoing recipient of FAP benefits.
2. On November 22, 2013, Claimant applied for Family Independence Program (FIP) benefits.
3. On November 27, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective December 16, 2013, ongoing. See Exhibit 1.

4. On March 6, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective April 1, 2014, ongoing, due to net income exceeding the limits. See Exhibit 1.
5. On March 13, 2014, Claimant notified the Department (via the request for hearing) that a household member left the FAP group, thus the group size was reduced from five to four. See Exhibit 1.
6. On March 13, 2014, Claimant filed a hearing request, protesting the FIP benefits, Medical Assistance (MA) benefits, and FAP case closure. 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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Preliminary matters

First, on March 13, 2014, Claimant also filed a hearing request, protesting the MA benefits. See Exhibit 1. Shortly after commencement of the hearing, Claimant was no longer disputing the MA benefits. As such, Claimant's MA hearing request is DISMISSED.

Second, Claimant also requested a hearing disputing her Cash (FIP) denial. On November 22, 2013, Claimant applied for FIP benefits. On November 27, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP application

was denied effective December 16, 2013, ongoing. See Exhibit 1. However, Claimant did not file a request for hearing to contest the Department's action until March 13, 2014. See Exhibit 1. 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 (March 2014), p. 6.

FAP benefits

BEM 556 states that if the income amount exceeds the maximum monthly net income, then deny benefits. See BEM 556 (July 2013), p. 5. RFT 250 indicates that the monthly net income (100%) limit for a group size of five is \$2,298. See RFT 250 (December 2013), p. 1.

In this case, Claimant was an ongoing recipient of FAP benefits. On March 6, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would be closed effective April 1, 2014, ongoing, due to net income exceeding the limits. See Exhibit 1. At the time the Department calculated Claimant's April 2014 FAP budget, it properly determined that the group size was five and that one household member was a senior/disabled/disabled veteran (SDV) member.

It should be noted that Claimant testified that one of the household members receives Supplemental Security Income (SSI). Moreover, Claimant testified that the household member received MA benefits, but not FAP assistance. A review of the FAP denial letter found the additional household member was not eligible as the other members because the net income exceeding the limits. See Exhibit 1. Therefore, when reviewing the budget below it includes determining whether Claimant's household member (who receives SSI) is eligible for FAP benefits.

At the hearing, the Department presented the April 2014 FAP budget for review. See Exhibit 1. The Department calculated the gross unearned income to be \$3,943, which consisted of group members' Retirement, Survivors, and Disability Insurance (RSDI) income, SSI, and child support direct (court-ordered) income.

The Department counts the gross benefit amount of RSDI income as unearned income. BEM 503 (January 2014), p. 28. Also, the Department counts the gross amount of current Social Security Administration (SSA) - issued SSI as unearned income. BEM 503, p. 32. Finally, court-ordered direct support means child support payments an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU). BEM 503, p. 8. The Department counts the total amount as unearned income, except any portion that is court-ordered or legally obligated directly to a creditor or service provider. BEM 503, pp. 8-9. For child support income, the Department uses the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 (July 2013), pp. 3-4.

In this case, the Department testified to the following gross unearned income amounts that was reflected in the budget (which Claimant did not dispute the gross): (i) \$1,402 in RSDI income (from group member); (ii) \$721 in SSI; (iii) \$253.50 in child support direct

(court-ordered); and (iv) \$1,049 in RSDI income (from another group member). See Exhibit 1. When the following unearned income amounts are added together, this results in a total of \$3,425.50. However, this amount is less than what the FAP budget reflects (\$3,943). See Exhibit 1. As such, the Department improperly calculated Claimant's unearned income amount in accordance with Department policy.

Also, the Department testified, though, that it failed to include Claimant's self-employment income of \$986. Claimant did not dispute this amount. However, self-employment income includes applicable deductions, which the budget does not reflect. See BEM 502 (January 2014), pp. 3-4. Nevertheless, because the Department improperly calculated Claimant's FAP unearned/earned income, it did not act in accordance with Department policy when it closed the FAP benefits effective April 1, 2014. Therefore, the Department will reinstate the FAP benefits and recalculate the budget effective April 1, 2014, ongoing.

It should be noted that it also appeared that Claimant's shelter expenses were miscalculated. Nonetheless, when the Department recalculates the FAP budget, it includes recalculating the shelter expenses as well. See BEM 554 (February 2014), pp. 1 and 12-13.

FAP group composition

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (January 2014), p. 9. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 10. These include, but are not limited to, changes in persons in the home. BAM 105, p. 10. A member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. BEM 212 (February 2014), p. 9.

Additionally, on March 13, 2014, Claimant notified the Department (via the request for hearing) that a household member left the FAP group, thus the group size was reduced from five to four. See Exhibit 1. Claimant acknowledged that this was the first time she notified that Department that a household member had left the FAP group. Claimant testified that group member officially left the home at the end of January 2014.

Based on this information, when the Department calculated Claimant's April 2014 FAP budget, it properly determined that the group size was five because this was done before the reported change. Nevertheless, because the Department will recalculate the FAP benefits for April 2014, it will also recalculate the FAP group composition. A member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. BEM 212, p. 9. BEM 212 indicates that because the Claimant reported the change (member delete) in March 2014, the group composition change would affect the April 2014 benefits. See Exhibit 1. Therefore, the Department will also recalculate Claimant's FAP group composition for April 1, 2014, ongoing. BAM 105, pp. 9 and 10 and BEM 212, p. 9.

DECISION AND ORDER

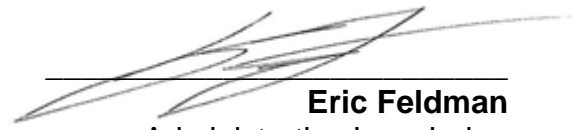
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it improperly closed Claimant's FAP benefits effective April 1, 2014, ongoing.

Accordingly, the Department's 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. Reinstate Claimant's FAP case as of April 1, 2014, ongoing;
2. Begin recalculating FAP budget (including group composition) for April 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from April 1, 2014, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's MA and FIP (cash) hearing request (dated March 13, 2014) is **DISMISSED**.



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

Date Signed: April 23, 2014

Date Mailed: April 23, 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

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
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