

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 2014-8561
Issue No.: 1022; 2000; 3014
Case No.: [REDACTED]
Hearing Date: November 25, 2013
County: Wayne (17)

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 November 25, 2013, 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 Specialist.

ISSUE

Did the Department properly process Claimant's Family Independence Program (FIP) application dated August 23, 2013?

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective August 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 is an ongoing recipient of FAP and FIP benefits. See Exhibit 1.
2. In August 2013, Claimant reported to the Department that his son is attending college.
3. Claimant receives Supplemental Security Income (SSI) and his son is 18-years-old and graduated high school in June and/or July 2013.

4. On August 23, 2013, Claimant applied for FIP benefits. See Exhibit 1.
5. On September 19, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FIP application was approved for a household size of three in the amount of \$210 for 9/16/2013 – 9/30/2013. See Exhibit 1.
6. On September 19, 2013, the Notice of Case Action also notified Claimant that his FIP application was approved for a household size of three in the amount of \$420 effective October 1, 2013, ongoing. See Exhibit 1.
7. On September 19, 2013, the Notice of Case Action also notified Claimant that his FAP benefits decreased to a household size of four in the amount of \$435 effective October 1, 2013, ongoing. See Exhibit 1.
8. Effective September 1, 2013, ongoing, the Notice of Case Action also notified Claimant that his son is an ineligible student for his FAP benefits. See Exhibit 1.
9. On October 16, 2013, Claimant filed a hearing request, protesting his FIP allotment, Medical Assistance (MA) benefits, 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.

☒ 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 July 9, 2013, the Administrative Law Judge (ALJ) affirmed the Department's FIP decision when it properly closed Claimant's FIP benefits effective July 1, 2013, ongoing, for reaching the 60-month federal time limit. During the hearing, Claimant wanted to dispute this issue again. However, this issue was already addressed and cannot be subsequently disputed again in this hearing decision. Nevertheless, Claimant subsequently applied for FIP benefits in August 2013 and is disputing issues in regards to that application. Claimant's subsequent FIP issues will be addressed in this decision.

Second, Claimant also filed a hearing request disputing his MA benefits. See Exhibit 1. However, it was discovered during the hearing that Claimant is no longer disputing his MA benefits. Thus, Claimant's MA hearing request is hereby DISMISSED.

FAP benefits

In this case, Claimant is an ongoing recipient of FAP benefits. On August 23, 2013, Claimant notified the Department that his son was a full-time college student. Thus, on September 19, 2013, the Department sent Claimant a Notice of Case Action notifying Claimant that his FAP benefits decreased to a household size of four in the amount of \$435 effective October 1, 2013, ongoing. See Exhibit 1. Also, effective September 1, 2013, ongoing, the Notice of Case Action also notified Claimant that his son is an ineligible student for his FAP benefits. See Exhibit 1.

At the hearing, Claimant requested a hearing indicating that his son should be part of his FAP group and that it should reflect a total group size of five as of August 2013, ongoing. Claimant testified that his son was a FAP group member in July 2013. Claimant agreed that he did report in August 23, 2013, that his son was attending school full-time. However, Claimant testified that his son dropped out of school approximately three weeks later and his son was no longer attending school. Claimant testified that his son lives with him. Claimant also testified that his son assists him because he is disabled and also helps his siblings. See Exhibit 1. Claimant testified that he never reported to the Department that his son was no longer in school. Claimant testified that his son was not employed in August 2013. Claimant appeared to indicate that he notified the Department that his son is no longer in school when he requested the present hearing and in previous hearing requests. The Department testified that it first learned of Claimant's son no longer being in school as of today's hearing.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (July 2013), p. 8. Other changes must be reported within 10 days after the client is aware of them. These include, but are not limited to, changes in: persons in the home. BAM 105, p. 9.

For FAP cases, a person enrolled in a post-secondary education program may be in student status. BEM 245 (July 2013), p. 1. A person in student status must meet certain criteria in order to be eligible for assistance. BEM 245, p. 1.

A person is in student status if he is:

- Age 18 through 49 and
- Enrolled half-time or more in a:
 - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
 - Regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required.

BEM 245, p. 3. In order for a person in student status to be eligible, they must meet one of the criteria's listed in BEM 245. BEM 245, pp. 3-5. This includes receiving FIP benefits, employed for at least 20 hours per week and paid for such employment, providing more than half of the physical care of a group member under the age of six, and other factors listed in BEM 245. BEM 245, pp. 3-5.

Based on the foregoing information and evidence, the Department properly reflected a FAP group composition of four effective September 1, 2013, ongoing, in accordance with Department policy.

The Department alleged that the group size decreased to four effective October 2013 and Claimant alleged that the decrease occurred in August 2013. However, the eligibility summary indicated a group size of six for August 2013 and then a decrease to four effective September 1, 2013, ongoing. See Exhibit 1. It appears the decrease was due to the son and ex-wife being removed from the group. See Exhibit 1. Moreover, effective September 1, 2013, ongoing, the Notice of Case Action notified Claimant that his son was an ineligible student for his FAP benefits. See Exhibit 1. Nevertheless, this is harmless error by the Department as to the time period testimony because Claimant's son was an ineligible student and the Claimant failed to report his son was no longer in school.

Claimant must report changes, which includes other changes that must be report within 10 days after the client is aware of them. See BAM 105, p. 9. Claimant properly reported that his son was a full-time student on August 23, 2013. The Department acted on this change report and sent the Notice of Case Action (dated September 19, 2013), which informed him that his FAP benefits decreased to a household size of four in the amount of \$435 effective October 1, 2013, ongoing. See Exhibit 1. Moreover, the Department properly indicated that Claimant's son is an ineligible student. Claimant indicated that his son was not employed and a review of BEM 245 indicates that his son did not meet the student status requirement. See BEM 245, pp. 3-5. Based on this information, the Department properly determined that Claimant's son was an ineligible student effective September 1, 2013, ongoing, in accordance with Department policy.

Additionally, Claimant failed to notify the Department subsequently that his son was no longer attending school. The Department did not err because Claimant failed to inform the Department that his son is no longer a student.

In summary, Claimant notified the Department that his son was a full-time student and the Department acted upon this change report. Again, it is harmless error by the Department as to the time period of the group composition decrease because Claimant's son was an ineligible student and the Claimant failed to report his son was no longer in school. Thus, the Department did not err in maintaining a FAP group composition of four effective September 1, 2013, ongoing.

FIP benefits

On August 23, 2013, Claimant applied for FIP benefits. See Exhibit 1. On September 19, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FIP application was approved for a household size of three in the amount of \$210 for 9/16/2013 – 9/30/2013. See Exhibit 1. On September 19, 2013, the Notice of Case Action also notified Claimant that his FIP application was approved for a household size of three in the amount of \$420 effective October 1, 2013, ongoing. See Exhibit 1.

At the hearing, Claimant disputed two issues with the FIP benefits. First, Claimant testified that he should have received FIP benefits for August and September 2013. Second, Claimant testified that his son (as discussed above) should also be a mandatory FIP group member. This would result in a total group size of four. It should be noted that Claimant receives SSI and he is an ineligible grantee and is not a member of the program group. See RFT 210 (January 2009), p. 1. Moreover, a FIP Eligibility Determination Group (EDG) member who receives SSI, has a FIP EDG participation status of Other Adult or Other Child. BEM 210 (July 2013) p. 8. The income, assets and needs of an SSI recipient are not considered in determining eligibility for the FIP EDG. BEM 210, p. 8. However, their relationships to other EDG members are considered. BEM 210, p. 8.

As to Claimant's first dispute, the Department presented evidence that Claimant applied for FIP benefits on August 23, 2013. See Exhibit 1.

The definition of pay period (or payment period) means the half-month that a warrant/benefit covers. BAM 400 (July 2013), p. 1. A pay period is either the first through the 15th day or the 16th through the last day of the month. BAM 400, p. 2. For cash benefits, at opening, the group is eligible for benefits no earlier than the pay period in which the application becomes 30 days old. BAM 400, p. 2; See BAM 115 (July 2013), p. 25.

Based on the above information and evidence, the Department properly processed Claimant's FIP application in accordance with Department policy. Claimant applied for FIP benefits on August 23, 2013. See Exhibit 1. For cash benefits, at opening, the group is eligible for benefits no earlier than the pay period in which the application

becomes 30 days old. BAM 400, p. 2; See BAM 115, p. 25. The Notice of Case Action indicated that Claimant first received his benefits for the pay period of September 16, 2013. See Exhibit 1. The Department properly issued benefits for this pay period because it was when the application became 30 days old. BAM 400, p. 2; See BAM 115, p. 25.

As to Claimant's second dispute, he testified that his son (as discussed in the FAP analysis) should also be a mandatory FIP group member. Claimant testified that his son lives with him, he is 18-years-old, and graduated high school in June and/or July 2013.

Group composition is the determination of which individuals living together are included in the FIP eligibility determination group/program group and the FIP certified group. BEM 210, p. 1. To be eligible for FIP both of the following must be true:

- The group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker.
- The group cannot include an adult who has accumulated more than 60 TANF funded months, beginning October 1, 1996 or any other time limits in the Family Independence Program.

BEM 210, p. 1.

A dependent child is an unemancipated child who lives with a caretaker and is one of the following:

- Under age 18.
- Age 18 and a full-time high school student.

BEM 210, p. 2; See also BEM 245, pp. 2-3.

When cash assistance is requested for a dependent child, or a dependent child is a mandatory FIP EDG member a dependence child is part of the group when they live together. BEM 210, p. 5.

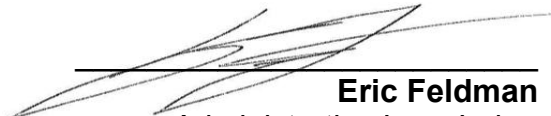
Based on the foregoing information and evidence, the Department properly did not include Claimant's son as a FIP group member in accordance with Department policy. A dependent child is an unemancipated child who lives with a caretaker and is one of the following: under age 18 or age 18 and a full-time high school student. BEM 210, p. 2. Claimant's son is not under the age of 18 and he graduated high school before the application date. Thus, Claimant's son is an ineligible FIP group member. BEM 210, pp. 1, 2, and 5.

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 acted in accordance with Department policy when it (i) properly reflected a FAP group composition of four effective September 1, 2013, ongoing; (ii) properly processed Claimant's FIP application which issued benefits effective September 16, 2013, ongoing; and (iii) properly processed Claimant's FIP application to reflect a group size of three effective September 16, 2013, ongoing and properly did not include Claimant and his son as FIP group members in accordance with Department policy.

Accordingly, the Department's FAP and FIP decisions are AFFIRMED.

IT IS ALSO ORDERED that Claimant's MA hearing request is DISMISSED.


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

Date Signed: December 3, 2013

Date Mailed: December 3, 2013

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]
[REDACTED]
[REDACTED]
[REDACTED]