

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-9042
Issue Nos.: 1011, 3011
Case No.: ██████████
Hearing Date: December 9, 2013
County: Wayne (82-76)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 December 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

ISSUES

1. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for August 1, 2013, ongoing?
2. Did the Department properly close Claimant's Family Independence Program (FIP) case due to child support noncompliance?

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 receives monthly Supplemental Security Income (SSI) benefits.
2. Claimant is an ongoing recipient of FAP benefits.
3. In August 2013, the Department issued \$16 in monthly FAP benefits to Claimant.
4. The Department requested a help desk ticket for the improperly underissued August benefits.

5. On August 2, 2103, Claimant filed an application requesting FIP assistance, listing his minor child as a household member.
6. On August 6, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FIP application was approved and, effective September 1, 2013, his FAP benefits would increase based on a FAP group size of two.
7. On October 15, 2013, the Department sent Claimant a Notice of Case Action informing him that his FIP case would close and his FAP benefits would be reduced based on child support noncooperation.
8. On October 23, 2013, Claimant filed a hearing request disputing the Department's actions.

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.

Additionally, three issues arose during the course of the hearing: (1) the underissued FAP benefits for August 2013, (2) the closure of Claimant's FIP case effective November 1, 2013, and (3) the calculation of Claimant's FAP benefits for September 1, 2013, ongoing.

August 2013 FAP Benefits

The Department testified that Claimant was the sole member of his FAP group for August 2013 and was eligible for a FAP allotment of \$200 for that month. Because Claimant reported his daughter living with him in the August 2, 2013, FIP application, she was not an eligible member of his FAP group until September 2013. BEM 212 (November 2012), p 7; BEM 550, p. 3. The August 8, 2013, Notice of Case Action shows that the child was added to Claimant's FAP group effective September 1, 2013. As such, the Department acted in accordance with Department policy when it concluded that Claimant was the only FAP member of his group in August 2013.

However, the Department admitted it had improperly doubled Claimant's unearned income in calculating his August 2013 FAP benefits and issued only \$16 in FAP benefits for the month even though he was eligible to receive \$200. The Department testified that a help desk ticket (No. BR-0031040) was issued but had not been resolved. Because Claimant was entitled to \$200 in FAP benefits for August 2013 but was issued only \$16, the Department did not act in accordance with Department policy when it issued Claimant's August 2013 FAP benefits.

Closure of Claimant's FIP Case and Reduction of FAP Benefits

At the hearing, Claimant testified that he had received a single FAP allotment of \$329 for a FAP group size of two for the month of September 2013, but subsequent FAP issuances were for only a group size of one. Furthermore, he had not received any FIP allotment for the month of November 2013.

Although Claimant requested a hearing in connection with an October 15, 2013, Notice of Case Action, the Department did not provide a copy of this Notice with its hearing packet. The evidence at the hearing established that the Office of Child Support (OCS) reported Claimant as noncompliant with his child support reporting obligations on October 14, 2013. It appears that Claimant's FIP case closed and his FAP group was reduced to one member due to the child support noncooperation.

Department policy requires that the custodial parent of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (October 2013), p. 1. While a failure to cooperate without good cause results in FIP group ineligibility for a minimum of one month and in disqualification from the FAP group of the individual who failed to cooperate, the disqualification is **not** imposed if OCS records the comply date on or before the timely hearing request date. BEM 255, pp. 2, 11, 13-14.

In this case, assuming the October 15, 2013, Notice of Case Action notified Claimant of the child support sanction, the timely hearing request day was October 26, 2013. See BAM 600 (July 2013), p. 21. At the hearing, the Department agreed that Claimant complied with child support on October 23, 2013. Because Claimant complied with his child support obligations by the timely request hearing date, the Department did not act in accordance with Department policy when it closed Claimant's FIP case and reduced his FAP benefits by removing him as a member of his FAP group. Because the Department provided no other explanation for the reduction of Claimant's FAP group size for benefits issued from October 1, 2013, ongoing, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy to the extent it relied on any other reason for decreasing Claimant's FAP group size to one and reducing his FAP benefits.

It is further noted that Claimant contended at the hearing that the Department improperly calculated his gross monthly unearned income. The Department testified that Claimant's gross monthly earned income was based on his monthly \$710 in SSI, \$14 in State SSI Payment (SSP) (based on a quarterly \$42 payment), and \$158 FIP

allotment. Claimant denied receiving the quarterly SSP benefit. The Department did not present any evidence to support its use of \$14 in SSP in calculating Claimant's gross monthly income. Thus, the Department failed to satisfy its burden of showing that it calculated Claimant's unearned income properly.

Although the Department provided an eligibility summary showing that Claimant was issued FIP for November 1, 2013, ongoing FAP benefits for a group size of two for October 1, 2013, ongoing, this information was provided after the hearing and it is unclear whether the benefits were issued in connection with Claimant's timely hearing request. Also, Claimant's testimony contradicted the information contained in the eligibility summary, and there was no opportunity to question the Department concerning the issuances on the eligibility summary. Accordingly, the eligibility summary is not considered in this Hearing Decision.

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 (i) failed to issue a \$184 FAP supplement for August 2013, (ii) calculated Claimant's FAP benefits for September 1, 2013 ongoing, and (iii) closed Claimant's FIP case for November 2013.

DECISION AND ORDER

Accordingly, the Department's 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. Issue a FAP supplement to Claimant in the amount of \$184 for his August 2013 FAP allotment;
2. Recalculate Claimant FAP benefits for September 1, 2013, ongoing, to include Claimant as a FAP group member and to include verified unearned income;
3. Reinstate Claimant's FIP case effective November 1, 2013;
4. Issue supplements to Claimant for any FIP and/or FAP benefits he was eligible to receive but did not from September 1, 2013, ongoing.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 12, 2013

Date Mailed: December 12, 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

ACE/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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