

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-014225
Issue Nos.: 1001, 3008
Case No.: ██████████
Hearing Date: December 10, 2014
County: Wayne (41-Ft Wayne)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████ ██████████

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits and reduce his Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. On September 5, 2014, the Department sent Claimant a notice of case action informing him that his FAP benefits would be reduced effective October 1, 2014.
2. On September 5, 2014, the Department sent Claimant a notice of noncompliance for failure to comply with work-related activities.
3. On October 9, 2014, the Department sent Claimant a notice of case action informing him that his FAP benefits would be increased effective October 1, 2014.
4. On October 23, 2014, Claimant requested a hearing to protest the closure of his FIP benefits and the reduction of his FAP benefits.

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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

FAP Issue

The Department failed to provide documentation of Claimant's FAP budget.

FIP Issue

On September 5, 2014, the Department sent Claimant a notice of noncompliance concerning Claimant's failure to participate in employment-related activities. The Department failed to send Claimant a notice of case action regarding FIP benefits listing the reason or reasons for its negative action. BAM 600 (July 2014).

On its Hearing Summary, the Department listed "non-compliance" as its reason for sanctioning Claimant's FIP benefits and erroneously stated that Claimant's FIP benefits would be closed for a lifetime sanction due to Claimant's third noncooperation. However, documentation shows that it was Claimant's second noncooperation.

The Department testified that Claimant had reached the 48-month limit for his FIP benefits; however the Department failed to provide documentation of the 48 months in question.

The calculation of Claimant's FAP and FIP benefits is based on budgets that were not provided. This omission did not allow the undersigned Administrative Law Judge to question Claimant and the Department concerning the budget elements during the hearing.

The production of evidence to support the Department's position is clearly required under BAM 600 as well as general case law [see, for example, *Kar v Hogan*, 399 Mich 529; 251 NW2d 77 (1976)]. In *McKinstry v Valley Obstetrics-Gynecology Clinic, PC*, 428 Mich167; 405 NW 2d 88 (1987), the Michigan Supreme Court addressed the issue of burden of proof, stating in part:

The term "burden of proof" encompasses two separate meanings. [citation omitted.] One of these meanings is the burden of persuasion or the risk of nonpersuasion. The other is the risk of going forward or the risk of nonproduction.

The burden of producing evidence on an issue means the liability to an adverse ruling (generally a finding or a directed verdict) if evidence on the issue has not been produced. It is usually on the party who has pleaded the existence of the fact, but..., the burden may shift to the adversary when the pleader has discharged [its] initial duty. The burden of producing evidence is a critical mechanism[.]

The burden of persuasion becomes a crucial factor only if the parties have sustained their burdens of producing evidence and only when all of the evidence has been introduced.

McKinstry, 428 Mich at 93-94, quoting *McCormick*, Evidence (3d ed), Sec. 336, p. 946.

In other words, the burden of producing evidence (i.e., of going forward) involves a party's duty to introduce enough evidence to allow the trier of fact to render a reasonable and informed decision.

In the instant case, the Department was unable to sufficiently support whether the amount of Claimant's FAP benefits was correct.

In the same vein, the Department argues that Claimant has reached the 48-month limit for receiving FIP benefits. However, without a listing of the 48 months in question, the Claimant is unable to respond to the Departments assertion that the 48-month limit has been reached.

The Department did not meet the burden of showing, through evidence, that its actions are supported by policy.

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 .
- did not act in accordance with Department policy when it failed to provide evidence/documentation supporting the decisions it made concerning Claimant's FIP and FAP benefits.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it .

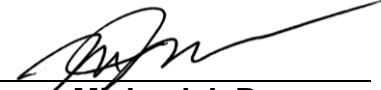
DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.**
- REVERSED.**
- AFFIRMED IN PART with respect to and REVERSED IN PART with respect to .

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 FIP benefits back to the date of closure, supplement for any missed benefits and recalculate the Claimant's FAP benefits.



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/26/2014**

Date Mailed: **12/26/2014**

MJB / pf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

