

**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.: 15-002093
Issue No.: 1000; 3008; 6000
Case No.: ██████████
Hearing Date: March 16, 2015
County: Wayne-District 15

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 March 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Family Independence Program (FIP) benefits for December 1, 2014 ongoing?

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for December 1, 2014 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 was an ongoing recipient of FIP and FAP benefits.
2. In July 2014, Claimant became employed.
3. In response to a New Hire Client Notice sent to her in October 2014, Claimant notified the Department that she worked 6 hours daily, 30 hours per week, for \$7.50 to \$8.15 per hour, and was paid biweekly. She included three paystubs with the returned notice; one dated September 4, 2014 showing 53.07 hours and gross

pay of \$401.72, one dated October 2, 2014 showing 59.15 hours and gross pay of \$481.91, and one dated October 16, 2014 showing 68.04 hours and gross pay of \$554.53.

4. On October 29, 2014, the Department sent Claimant a Notice of Case Action notifying her that effective December 1, 2014, her FIP benefits were decreasing to \$10 monthly and her FAP benefits were decreasing to \$186 monthly.
5. On December 18, 2014, Claimant sent additional paystubs to the Department.
6. On January 29, 2014, Claimant filed a request for hearing concerning the Department's actions regarding her FAP and FIP cases and her Child Development and Care (CDC) application.

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.

Claimant filed a hearing request on January 29, 2015 concerning her FIP and FAP cases and her CDC applications. At the hearing, she testified that she understood the Department's actions concerning her CDC applications and did not wish to pursue a hearing concerning that matter. Based on Claimant's withdrawal of her hearing request concerning CDC, the CDC matter is dismissed.

The hearing proceeded to address Claimant's FIP and FAP benefits. However, after the hearing, it was noted that the Department notified Claimant of a reduction in her FIP and FAP benefits in a October 29, 2014 Notice of Case Action and that Claimant's January 29, 2015 hearing request disputing the Department's FIP and FAP actions was submitted more than 90 days from the date of the Notice at issue. A request for hearing

that is not received in the local office within 90 days of the date of the written notice of case action is not timely. BAM 600 (October 2014), p. 6. However, a client may request a hearing disputing the current level of FAP benefits at any time within the benefit period. BAM 600, p. 6. Therefore, while Claimant's hearing request concerning FIP is dismissed as untimely, the merits of her FAP issue concerning her benefit level as of January 2015 ongoing is addressed.

The Department did not provide a net income budget showing the calculation of Claimant's FAP benefits. Accordingly, the information and figures shown in the October 29, 2014 Notice of Case Action were reviewed with Claimant at the hearing.

Claimant confirmed that there were two members in her FAP group and that there were no senior/disabled/veteran (SDV) members of the group. She also confirmed that she did not have any child support expenses. Based on this information, Claimant's budget properly showed no deduction for medical expenses or child support and a \$154 standard deduction. See BEM 554 (October 2014), p. 1; RFT 255 (October 2014), p. 1. The budget also showed that the Department applied the \$553 mandatory heat and utility standard, which is the most advantageous utility standard available to a client. BEM 554, pp. 14-20; RFT 255, p. 1. The budget also showed unearned income of \$10, which was Claimant's monthly FIP grant.

The following issues arose during the course of the hearing: (i) the calculation of Claimant's gross monthly earned income; (ii) the exclusion of shelter expenses; and (iii) the exclusion of dependent care expenses.

In this case, Claimant contended that the October 2014 employment income the Department used to prospect her gross monthly income was greater than her usual employment income because she had worked more hours that month than was usually assigned to her. Claimant testified that she notified the Department of this fact and sent paychecks for periods after October 2014 showing reduced employment income. The Department testified that the only verifications it received were on December 18, 2014 (Exhibit C). Claimant did not have any fax confirmations or other evidence to support her testimony that other paystubs were properly sent to the Department. While one of the paystubs submitted on December 18, 2014 was illegible, the Department was on notice that Claimant was attempting to establish that her income had decreased and should have given her the opportunity to verify the information. BAM 130 (October 2014), pp. 1, 3-4.

Changes which result in an increase in the household's FAP 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 (October 2014), p. 6; BEM 505 (July 2014), p. 10. A change in employment income submitted on December 18, 2014 would affect January 2015 FAP benefits. Therefore, the Department erred when it failed to consider Claimant's change in employment income for her January 2015 ongoing FAP benefits.

The budget showed that the Department did not consider any housing expenses in calculating Claimant's FAP benefits. A client is eligible for a shelter expense when the FAP group has or contributes to a shelter and the client has verified the expense. BEM 554, pp. 12, 14. Claimant testified that she and her landlord had verified her monthly \$525 housing expenses in June 2014. This would coincide with Claimant's FAP redetermination period. The Department was unable to present any evidence concerning its failure to consider any shelter expenses in calculating Claimant's FAP benefits. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it excluded those expenses in calculating Claimant's FAP benefits.

Claimant also contended that the Department failed to consider her child care expenses. A client is eligible for a deduction for unreimbursed dependent care expenses a client pays for a child when such care is necessary to enable a member of the FAP group to work. BEM 554, p. 7. Such expenses must be verified at application, reported change and redetermination. BEM 554, p. 8.

In this case, the evidence showed that the Department became aware of Claimant's employment in October 2014. Claimant had applied for, and been denied, CDC benefits. Claimant also credibly testified that she had notified the Department that she had child care expenses. A change may be reported in person, by mail or by telephone. BAM 105 (October 2014), p. 11. Under the facts presented, Claimant established that she notified the Department of her day care expenses. Therefore, the Department did not act in accordance with Department policy when it failed to request verification of those expenses and include them as a dependent care deduction in Claimant's FAP budget. See BEM 554, p. 8; BAM 130 (October 2014), p. 3.

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 calculated Claimant's FAP benefits for January 1, 2015 ongoing.

DECISION AND ORDER

Claimant's hearing request concerning her CDC and FIP issues is **DISMISSED** for the reasons discussed above.

The Department's FAP calculation for January 1, 2015 ongoing 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. Recalculate Claimant's FAP benefits for January 1, 2015 ongoing;
2. Issue supplements to Claimant for any FAP benefits she is eligible to receive from January 1, 2015 ongoing; and
3. Notify Claimant in writing of any FAP supplements she is eligible to receive.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/24/2015**

Date Mailed: **3/24/2015**

ACE / tlf

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:

- 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

