

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004926
Issue No.: 3008, 1004
Case No.: [REDACTED]
Hearing Date: May 12, 2015
County: Kent (District 1) Franklin

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 12, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Case Manager, and [REDACTED], Family Independence Manager.

ISSUES

Did the Department properly determine the monthly allotment for Claimant's Food Assistance Program (FAP) group?

Did the Department properly process the Family Independence Program (FIP) benefits for Claimant's FIP group?

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's FIP group has not actually been receiving the FIP benefits due to a computer system error with the protective payee.
2. A Help Desk ticket was submitted March 11, 2015, regarding the FIP error.
3. Claimant's FAP group receives ongoing FAP benefits.
4. In March 2015, the Department discovered that there was an error with the FAP group composition.

5. Claimant is not an eligible FAP group member based on having at least two drug-related felony convictions since [REDACTED] 1996.
6. On March 18, 2015, a Notice of Case Action was issued to Claimant stating the FAP monthly allotment would decrease to \$ [REDACTED] effective April 1, 2015, based on removing Claimant from the FAP group as well as another group member that is no longer living in the home.
7. On March 24, 2015, Claimant filed a hearing request contesting the FIP being included in the FAP budget noting she has not received the FIP since April 20, 2014.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) 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-.3131.

In this case, it was uncontested that there is an error with Claimant's FIP case. A Help Desk ticket was submitted March 11, 2015, which was still pending as of the May 12, 2015, hearing date. Therefore, it cannot be found that the Department has properly processed the FIP benefits for Claimant's FIP group. The Department should expedite the Help Desk ticket to resolve this issue.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Budgeting income for disqualified persons living with the FAP group differs based on the reason for the disqualification. Family Independence Program (FIP) and State Disability Assistance (SDA) benefits are considered the unearned income of the FIP/SDA head of household (HOH). BEM 550, February 1, 2014, p. 2.

The Department budgets all earned and unearned income of a person disqualified for a drug-related felony, second offense. BEM 550, p. 3.

However, the Department is to use **only** available, countable income to determine eligibility. BEM 550, p. 1. (Emphasis in original)

In this case, Claimant contests the budgeting of the FIP benefits in the FAP budget because the FIP benefits are not actually being received. Claimant asserted that the FIP benefits have not been received since April 20, 2014. Accordingly, it appears that the FIP benefits have not actually been available income for quite some time. If the Department is not able to promptly resolve the FIP payment issue, the FAP benefits should be re-determined to budget only the available countable income.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed the FIP benefits for Claimant's FIP group and when it determined the monthly allotment for Claimant's FAP group.

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. Expedite the Help Desk ticket regarding the FIP benefits for Claimant's FIP group.
2. If the Department is not able to promptly resolve the FIP payment issue, re-determine eligibility for Claimant's FAP group in accordance with Department policy.
3. Issue written notice of any case action(s) in accordance with Department policy.
4. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/19/2015**

Date Mailed: **5/19/2015**

CL/jaf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

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 48909-8139

cc:

