

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-007342
Issue No.: 1001, 3001
Case No.: [REDACTED]
Hearing Date: June 11, 2015
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 June 11, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included [REDACTED] - [REDACTED] hearing facilitator, and [REDACTED], specialist.

ISSUES

The first issue is whether MDHHS properly terminated Claimant's Family Independence Program (FIP) eligibility without sending Claimant notice of the termination.

The second issue is whether MDHHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

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 FIP and FAP benefit recipient.
2. Claimant was a member of a 3-person household that also included Claimant's 18-year-old daughter who attended college full time.
3. Claimant's adult daughter was employed for at least 20 hours per week.
4. On an unspecified date, MDHHS terminated Claimant's FIP eligibility, effective January 2015.

5. MDHHS did not send written notice of the FIP termination to Claimant.
6. On an unspecified date, MDHHS determined Claimant's FAP eligibility, effective January 2015, in part, by excluding Claimant's 18-year-old daughter due to student status.
7. On [REDACTED], Claimant requested a hearing to dispute her FIP and FAP eligibility since January 2015.

CONCLUSIONS OF LAW

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

Claimant requested a hearing, in part, due to a termination of FIP eligibility. Claimant initially testified that MDHHS terminated her eligibility effective December 2014. MDHHS presented an Eligibility Summary (Exhibit 1) which verified that Claimant received FIP benefits for December 2014, but not for January 2015. After seeing the Eligibility Summary, Claimant conceded that her FIP eligibility was terminated beginning January 2015.

MDHHS testified that Claimant's FIP eligibility ended due to her failure to complete a Family Automated Screening Tool (FAST). Evidence suggested that MDHHS sent Claimant a notice to complete a FAST several months before a FIP termination was undertaken; this is a potential obstacle to affirming the FIP termination. There was also a dispute as to whether Claimant failed to complete a FAST. As it happened, the FIP termination can be decided based on a separate procedural flaw.

For all programs, upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (10/2014), p. 1. The notice of case action is printed and mailed centrally from the consolidated print center. *Id.* A notice of case action must specify the following (*Id.*, p. 2):

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.

- The conditions under which benefits are continued if a hearing is requested.

Prior to the hearing, MDHHS did not provide written notice verifying the reason for the FIP termination. During the hearing, MDHHS was asked to provide a Notice of Case Action verifying the notice date and reason for benefit termination. MDHHS conceded that a written notice was never issued to Claimant. Based on MDHHS' failure to provide Claimant with written notice of case action, the termination of FIP eligibility will be reversed.

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

Claimant requested a hearing, in part, to dispute her FAP eligibility from January 2015. FAP benefit determinations factor the following: income, standard deduction, mortgage expenses, utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. During the hearing, Claimant was asked about each FAP budget factor. The only factor in dispute concerned Claimant's FAP group size.

Claimant testified that, as of January 2015, she lived with a minor child and an adult child. Claimant contended that MDHHS should have factored a 3-person FAP benefit group. MDHHS responded that Claimant's adult daughter was disqualified due to student status.

A person enrolled in a post-secondary education program may be in student status. BEM 245 (7/2014), p. 1. A person in student status must meet certain criteria in order to be eligible for assistance. *Id.*

A person is in student status if he/she is aged 18 through 49 years and enrolled half-time or more in either:

- a vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate; or
- a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. *Id.*, p. 3.

It was not disputed that Claimant reported to MDHHS that her 18-year-old daughter was a full-time college student. Thus, it is found that Claimant's adult daughter was in student status.

In order for a person in student status to be eligible, they must meet one of the following criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
 - A JTPA program.
 - A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
 - Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year (i.e. work study).
- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
 - Enable the person to attend class and work at least 20 hours per week.
 - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does not live with his or her natural, adoptive or stepparent.

Id., pp. 3-5.

During the hearing, MDHHS examined Claimant's daughter's check stubs from January 2015 and discovered that Claimant's daughter was employed at least 20 hours. MDHHS conceded that Claimant's daughter's employment exempted her from a student status disqualification. Claimant could not confirm the MDHHS testimony because she was unsure of her daughter's employment hours.

Based on the presented evidence, it is found that MDHHS improperly excluded Claimant's daughter from Claimant's FAP benefit group. MDHHS will be ordered to redetermine Claimant's FAP eligibility by including Claimant's daughter and her income. Claimant should be advised that the updated determination may actually result in fewer benefits because of the inclusion of Claimant's daughter's income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Claimant's FIP eligibility. It is further found that MDHHS improperly determined Claimant's FAP eligibility. It is ordered that MDHHS perform the following actions:

- (1) reinstate Claimant's FIP eligibility, effective January 2015, subject to the finding that MDHHS failed to provide Claimant with written notice of the termination;
- (2) redetermine Claimant's FAP eligibility, effective January 2015, subject to the finding that Claimant's daughter was not in student status; and
- (3) initiate a supplement for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/18/2015**

Date Mailed: **6/18/2015**

CG / hw

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:

