

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

IN THE MATTER OF:

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Reg. No.: 15-007451
Issue No.: 1001; 3000; 7000
Case No.: ██████████
Hearing Date: June 17, 2015
County: WAYNE-DISTRICT 55
(HAMTRAMCK)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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, an in-person hearing was held on June 17, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's Authorized Hearing Representatives (AHRs), ██████████, ██████████, and ██████████, Organizer, from ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████, ██████████, Eligibility Specialist/Medical Contact Worker; and ██████████, Hearings Facilitator.

ISSUE

Did the Department properly provide Claimant with the Family Independence Program (FIP) benefits he is eligible to receive for September 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 benefits. See Exhibit A, pp. 9-13.
2. Claimant's Benefit Summary Inquiry and Eligibility Summary indicated that he received FIP benefits from September 2014 to November 2014. See Exhibit A, pp. 9-13.

3. Effective December 1, 2014, Claimant's FIP benefits closed due to his benefits allegedly exceeding the lifetime limit; however, the Department failed to send Claimant any notice of case closure (i.e., Notice of Case Action). See Exhibit A, p. 14.
4. On April 28, 2015, Claimant/AHR filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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.

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.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

Preliminary matters

First, Claimant disputed the following in his hearing request, "Since September 14 I have not received the benefits awarded to me and that was in the year 2014." See Exhibit A, p. 2. The undersigned interprets Claimant's hearing request to mean that he disputes not receiving assistance from September 2014, ongoing. As such, the undersigned would not address any dispute with benefits dating before September 2014.

Second, it appeared that Claimant and his AHRs disputed the Department's failure to implement a previous Decision and Order (D&O) regarding an administrative hearing the undersigned held on April 24, 2014 (see Reg. no. 2014-33277). This ruling was in

regards to Claimant's DSS request for vehicle repair services. However, Claimant failed to dispute the Department's failure to implement the D&O in his hearing request. See Exhibit A, p. 2. As such, the undersigned lacks the jurisdiction to address Claimant's dispute with the DSS request/previous administrative hearing. See BAM 600 (April 2015), pp. 1-6.

Third, Claimant/AHR also disputed the amount/reduction in his FAP benefits. However, Claimant's hearing request fails to dispute any reduction and/or the amount of his FAP benefits. As such, the undersigned lacks the jurisdiction to address the amount/reduction of his FAP allotment. See BAM 600, pp. 1-6. Claimant can request another hearing to dispute the amount of his FAP allotment. See BAM 600, pp. 5-6 (The Michigan Administrative Hearing System (MAHS) may grant a hearing about any of the following: for FAP only, the current level of benefits or denial of expedited service).

Fourth, Claimant/AHR disputed the closure of his FAP benefits effective on or around June 1, 2015, ongoing. However, it was discovered that the Notice of Case Action informing Claimant of the case closure occurred after the hearing request. Because the closure notice was generated after Claimant hearing request, the undersigned lacks the jurisdiction to address the closure of FAP benefits. Claimant can request another hearing to dispute the FAP closure. See BAM 600, p. 6 (The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days).

Fifth, the undersigned will only address whether the Department properly provided Claimant with FIP benefits he is eligible to receive for September 1, 2014, ongoing, based on the above information.

FIP benefits for September 2014 to November 2014

Cash benefits are issued to clients based on information entered in the Department's system (Bridges). BAM 400 (July 2014), p. 1. Benefits are issued using the Electronic Benefit Transfer (EBT) system. BAM 400, p. 1. Clients have a Michigan Bridge card where their benefits are automatically deposited. BAM 400, p. 1. FIP clients receive ongoing benefits, early payments (EPs) and supplemental benefits less than \$1,000 in their EBT cash account. BAM 401E (July 2014), p. 9. A case payment history can be obtained through the View Benefits screen. BAM 400, p. 3. By entering up to a 12-month time period and a specific case number, all payments for the case will be displayed on the screen(s). BAM 400, p. 3.

The evidence established that Claimant received FIP assistance from September 2014 to November 2014. See Exhibit A, pp. 9-13; BAM 401, pp. 1-2; and BAM 401E, p. 9. There was no evidence to contradict that Claimant did not receive FIP assistance from September 2014 to November 2014. As such, the Department properly provided

Claimant with FIP benefits he was eligible to receive for September 2014 to November 2014 in accordance with Department policy.

FIP benefits for December 1, 2014, ongoing

Effective December 1, 2014, Claimant's FIP benefits closed due to his benefits allegedly exceeding the lifetime limit; however, the Department failed to send Claimant any notice of the case closure. See Exhibit A, p. 14. During the hearing, the Department acknowledged that no Notice of Case Action was generated to inform Claimant of the case closure.

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (October 2014), p. 1. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220, p. 1. This case would involve a negative action. A negative action is a DHHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220, p. 1. A notice of case action must specify the following:

- 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.

BAM 220, p. 2.

Additionally, there are two types of written notice: adequate and timely. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pending), such as an increase in benefits. BAM 220, p. 1. This case, though, would involve timely notice. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220, p. 4. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220, p. 4. The action is pending to provide the client a chance to react to the proposed action. BAM 220, p. 4.

Based on the foregoing information and evidence, the undersigned finds that the Department failed to provide Claimant with timely notice of his case closure in accordance with Department policy. See BAM 220, pp. 1-4. As stated previously, Claimant's FIP benefits closed due to his benefits allegedly exceeding the lifetime limit. FIP time limit policy is located in BEM 234. BEM 234 (July 2013), pp. 1-7. On Oct. 1, 1996, Michigan law reduced the cumulative total of FIP to 48 months during an individual's lifetime. BEM 234, p. 1. Also, under FIP, a family is not eligible for assistance beyond 60 consecutive or non-consecutive federally funded months. BEM

234, p. 1. As such, the undersigned orders the Department to redetermine Claimant's FIP eligibility effective December 1, 2014, ongoing, and notify Claimant/AHR in writing of its FIP decision in accordance with Department policy.

It should be noted that the undersigned has the jurisdiction to address Claimant's FIP case closure. The Department failed to send any written notice of case action informing Claimant of his case closure, thus, the 90 calendar day deadline to request a hearing had been tolled. See BAM 600, p. 6.

DECISION AND ORDER

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 (i) acted in accordance with Department policy when it properly provided Claimant with FIP benefits he was eligible to receive for September 2014 to November 2014; (ii) did not act in accordance with Department policy when it failed to provide Claimant with timely notice of his FIP case closure effective December 1, 2014, ongoing; and (iii) the undersigned lacks the jurisdiction to address Claimant's dispute with his FAP benefits and DSS request/prior administrative hearing decision.

Accordingly, the Department's FIP decision is **AFFIRMED IN PART** with respect to Claimant's FIP benefits for September 2014 to November 2014 and FAP/DSS lack of jurisdiction and **REVERSED IN PART** with respect to his FIP case closure effective December 1, 2014.

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. Redetermine Claimant's FIP eligibility for December 1, 2014, ongoing; and
2. Notify Claimant/AHR in writing of its FIP decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/19/2015**
Date Mailed: **6/19/2015**
EJF/tm

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:

[REDACTED]