

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-008053
Issue No.: 1000, 3000, 3007
Case No.: [REDACTED]
Hearing Date: June 25, 2015
County: Wayne (41)

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, an in-person hearing was held on June 25, 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], hearing liaison, and [REDACTED], specialist.

ISSUE

The issue is whether Claimant timely requested a hearing to dispute negative actions to Family Independence Program (FIP) and/or 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 recipient.
2. On [REDACTED], MDHHS terminated Claimant's FIP eligibility, effective March 2015, for the reason that an unspecified group member was noncompliant with an employment-related activity.
3. On [REDACTED], MDHHS reduced Claimant's FAP eligibility, effective March 2015, for the reason that Claimant was noncompliant with an employment-related activity.

4. On [REDACTED], Claimant requested a hearing to dispute the termination of FIP eligibility, the reduction in FAP eligibility, and the imposition of a disqualification against her.

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, to dispute a termination of FIP benefits. MDHHS testified that the termination was precipitated by Claimant's boyfriend's failure to attend PATH. MDHHS presented a Notice of Case Action (Exhibits 1-6) verifying that written notice of the case actions was mailed to Claimant on [REDACTED].

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (January 2015), p. 6. The request must be received in the local office within the 90 days. *Id.*

Claimant did not request a hearing to dispute the FIP termination until [REDACTED] - approximately 115 days after MDHHS mailed Claimant written notice. It is found that Claimant failed to timely request a hearing to dispute FIP eligibility.

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 also requested a hearing to dispute a reduction in FAP benefits. The FAP analysis differs slightly from the FIP analysis.

A 90 day timeframe to request a hearing applies to FAP benefits, but with one exception. Claimants may dispute the current level of FAP benefits or denial of expedited service *Id.* Thus, Claimant can dispute her current level of FAP benefits. Claimant's only apparent dispute was that MDHHS disqualified her for noncompliance with an employment-related activity.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following situations (BEM 233B (July 2013), p. 1.):

- Client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause.
- Client is active RCA and becomes noncompliant with a RCA program requirement.
- Client is pending or active FAP only and refuses employment (voluntarily quits a job or voluntarily reduces hours of employment) without good cause.

At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP. *Id.*

Claimant's boyfriend's PATH disqualification was established by Claimant's failure to timely dispute the FIP termination. It was not disputed that Claimant was actively receiving FIP and FAP benefits as of the date of her boyfriend's employment-related disqualification. Accordingly, it is found that MDHHS properly reduced Claimant's FAP eligibility due to Claimant's boyfriend's employment-related noncompliance.

Claimant alleged that MDHHS did not disqualify her boyfriend; instead MDHHS disqualified her. MDHHS testimony conceded the allegation. The MDHHS concession was consistent with the presented Notice of Case Action which listed Claimant as the disqualified FAP group member.

The Michigan Administrative Hearing System may grant a hearing about any of the following (see *Id.*, p. 3):

- denial of an application and/or supplemental payments;
- reduction in the amount of program benefits or service;
- suspension or termination of program benefits or service
- restrictions under which benefits or services are provided;
- delay of any action beyond standards of promptness; or
- the current level of benefits or denial of expedited service (for Food Assistance Program benefits only).

The FAP disqualification was not shown to affect Claimant's FAP eligibility. Claimant's FAP group size is 4 persons regardless of which adult member is disqualified. Without any showing that Claimant is adversely affected by the disqualification, no administrative remedy is justified. MDHHS would be wise to correct the disqualification to avoid future eligibility problems. Though a disqualification of the wrong group member may cause future eligibility problems, until such a problem arises, Claimant is not entitled to an administrative remedy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to timely request a hearing to dispute FIP eligibility from

March 2015. It is further found that Claimant failed to show that her FAP eligibility was adversely affected by a disqualification of her rather than her boyfriend. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly reduced Claimant's FAP eligibility, effective March 2015. The actions taken by MDHHS are **AFFIRMED**.



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

Date Signed: **7/1/2015**

Date Mailed: **7/1/2015**

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:

