

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

IN THE MATTER OF:



Reg. No.: 15-009500
Issue No.: 1000, 1001, 3000
Case No.: [REDACTED]
Hearing Date: July 08, 2015
County: WAYNE-DISTRICT 41

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 July 8, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] Hearings Liaison and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly determine that the Claimant's fiancé was not eligible for FAP in Claimant's FAP group?

Did the Department properly determine the Claimant's FIP benefits and that Claimant's fiancé was not a caretaker?

Did the Department properly calculate the Claimant's FIP benefits for June 2015?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At the hearing the Claimant withdrew her hearing on the record during the hearing regarding the failure of the Department to include her fiancé in her FAP group when calculating her FAP benefits. Claimant agreed that her fiancé was still open in his mother's FAP case and would be removed.

2. The Claimant is an ongoing recipient of FIP cash assistance. The Claimant sought to add her fiancé as a FIP group member as a caretaker. The Claimant has been approved for \$188 in FIP benefits as of June 1, 2015 based on a FIP group size of 2. Exhibit 1
3. The Claimant did not receive Child Support of \$265 for the month of June 2015 but the income was included in her FIP benefit calculation. Exhibit 2 and Exhibit 3
4. The Claimant requested a hearing on [REDACTED] protesting the Departments actions with regard to her FAP and FIP benefits.

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.

Food Assistance (FAP)

In this case, the Claimant conceded that her fiancé was not eligible to be included in her FAP group as he was already open in his mother's case. The Claimant agreed to withdraw her [REDACTED] FAP hearing request on the record.

FIP Group Size

The Claimant requested that her fiancé be added to her FIP group as he was a caretaker of her child. Based upon Department policy found in BEM 201 the Department correctly determined that the Claimant's fiancé was not a caretaker or eligible to be a FIP edg group member based upon the Department policy referenced below.

Caretaker

A caretaker is a legal parent or stepparent living in the home, or when no legal parent or stepparent lives in the home, another adult who acts as a parent to a dependent child by providing physical care and supervision. See *Who May Be a FIP Caretaker?* in this item. BEM 210 (July 1, 2015) p. 1

Who May be a FIP Caretaker?

A legal parent or stepparent living with a dependent child is always the child's caretaker, unless the parent is a minor. See *Multi-Generation and Combined Groups* in this item for exceptions regarding minor parents.

A person other than a legal parent or stepparent may be a caretaker only when the dependent child has no legal parent or stepparent in the home. A caretaker in the child's home, other than a parent or stepparent must be one of the following:

1. A relative who is at least age 18 and legally related to the child by blood, marriage or adoption, as any of the following:
 - Grandparent (including great or great-great).
 - Aunt or uncle (including great or great-great).
 - Sibling.
 - Stepsibling.
 - Nephew or niece.
 - First cousin or first cousin once removed.
 - The spouse of any of the above, even after the marriage is ended by death or divorce.
 - The parent of the child's putative (alleged) father. BEM 201, p.6-7.

In conclusion, based upon BEM 210 the Department correctly determined that the Claimant's fiancé was not eligible to be a caretaker and thus could not be a FIP group member on that basis.

FIP Benefit Calculation June 2015

The Claimant received \$188 in FIP benefits in June 2015 based upon unearned income from child support of \$265, which she did not receive (Claimant Exhibit A and Exhibit 2). The Department actually received the child support (Claimant Exhibit A and Exhibit 3). The Department's own records (Child Support Search) clearly demonstrate that no child support was received in June 2015 by Claimant. Notwithstanding not receiving child support, the Department included child support when computing Claimant's FIP benefits (Exhibit 2). When calculating FAP benefits for June 2015 the Department included income of \$403, as FAP unearned income (\$403 is the Full FIP payment standard for a group of two). In addition the Claimant attempted to contact her caseworker to report the change in child support as of [REDACTED], and thereafter by email on [REDACTED] with no response from the caseworker.

CHILD SUPPORT

FIP Only

Certified support means court-ordered support payments sent to the DHS by the Michigan State Disbursement Unit (MiSDU). Bridges excludes from the deficit test the amount of collections retained by the DHS. BEM 518(July 1, 2015) p. 2

Up to \$50 from this amount is excluded. The result is added to the group's net earned and other unearned income. Any support paid for persons not in the home is deducted from this total. The resulting amount is compared to the eligible group's payment standard. If the result is equal to or greater than the certified group's payment standard the group is **not** eligible for assistance. BEM 518, p.4

Based upon the above policy the Department failed to establish that it correctly calculated the Claimant's FIP benefits as the evidence clearly established that she did not receive child support for June 2015 which was her only source of income and thus her income for FIP benefit calculation purposes was zero. This conclusion is also supported by the fact that the Department used unearned income of \$403 when calculating June 2015 FAP benefits. Exhibit 2 and 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 acted in accordance with Department policy when it denied adding the Claimant's fiancé to the Claimant's FAP and FIP groups.

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 calculated the Claimant's FIP benefits and included \$265 in child support the Claimant did not receive and which was paid to the Department.

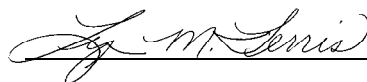
DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED IN PART with respect to the denial of the Claimant's request to add her fiancé to her FIP and FAP groups and **REVERSED IN PART** with respect to the Claimant FIP benefit calculation for June 2015.

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. The Department shall redetermine the Claimant's FIP benefits for the month of June 2015 and shall not include any amount of child support not received.
2. The Department shall issue a FIP supplement to the Claimant for FIP benefits she is otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/23/2015**

Date Mailed: **7/23/2015**

LMF / 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:

