

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 15-012654
Issue No.: 1001 3001
Case No.: ██████████
Hearing Date: August 27, 2015
County: Wayne (35)

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 August 27, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, hearing facilitator.

ISSUES

The first issue is whether MDHHS properly terminated Claimant's Family Independence Program (FIP) eligibility due to a failure to verify information.

The second issue is whether MDHHS properly calculated 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 FAP and FIP benefit recipient.
2. Claimant was a member of a 2-person household that included a child receiving Supplemental Security Income (SSI).
3. On April 17, 2015, MDHHS mailed a Notice of Case Action informing Claimant that she was eligible to receive ██████████, effective May 2015.

4. On May 28, 2015, MDHHS mailed Claimant a Verification Checklist (VCL) requesting information about "Disability Unknown."
5. The VCL due date was June 8, 2015.
6. On June 18, 2015, MDHHS mailed Claimant a Notice of Case Action to inform Claimant of a termination of FIP benefits, effective July 2015.
7. On July 9, 2015, Claimant requested a hearing to dispute the termination of FIP benefits and FAP eligibility, effective May 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, to dispute a termination of FIP eligibility. MDHHS presented a Notice of Case Action (Exhibits 2-3) verifying the reasons for closure. Two different reasons were listed. The first reason was the absence of an eligible child in Claimant's FIP group.

Group composition is the determination of which individuals living together are included in the FIP eligibility determination group/program group and the FIP certified group. BEM 210 (July 2015), p. 1. To be eligible for FIP... the group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker. *Id.*

Claimant testified that she and her child are the only members of her household. Claimant also testified that her child was an SSI recipient. Claimant's testimony was not disputed. MDHHS policy provides the following example of how MDHHS is to process FIP eligibility for a parent with one child receiving SSI (see *Id.*, p.8):

Example: SSI recipient has one child. The SSI recipient cannot be in the FIP certified group; however, the SSI parent's relationship to the dependent child forms a valid FIP EDG.

Based on presented evidence, it is found that MDHHS erred in terminating Claimant's FIP eligibility due to the absence of an eligible child. The analysis will proceed to consider the second provided reason for termination, a failure to submit documentation.

MDHHS presented a VCL (Exhibit 1) dated May 28, 2015. The VCL requested information about "Disability Unknown." MDHHS did not detail what information was requested or why it was requested. The termination of FIP eligibility could easily be reversed due to this MDHHS failure. Instead, the analysis will proceed to consider whether Claimant complied with the verification request.

The VCL due date gave Claimant a deadline of June 8, 2015. MDHHS did not take action on Claimant's failure until to comply with the VCL until June 18, 2015, the date of a Notice of Case Action (Exhibits 2-3) informing Claimant of the FIP termination. The MDHHS Hearing Summary conceded that Claimant submitted requested medical documentation on June 25, 2015.

There are two types of written notice: adequate and timely. BAM 220 (1/2014), p. 2. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pending). *Id.* A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action. *Id.*, p. 4. The notice sent in the present case was a timely notice.

Claimant reacted to the timely notice of closure on the 7th day following written notice of closure by submitting required verifications. MDHHS should have halted the closure due to Claimant's compliance; MDHHS did not. The MDHHS failure is reversible error. It is found that MDHHS improperly terminated Claimant's 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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute her FAP eligibility. Claimant testimony specified that her FAP eligibility since May 2015 was disputed. BEM 556 directs MDHHS to factor a FAP group's countable income and allowable expenses.

MDHHS factored unearned income of [REDACTED]. Claimant testimony conceded the amount as accurate.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2014), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups containing SDV members, MDHHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. It is presumed that

Claimant's child is disabled based on receipt of SSI; thus, Claimant's FAP group is an SDV group.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. Claimant testimony conceded that she had no such expenses.

Claimant's FAP benefit group receives a standard deduction of [REDACTED] RFT 255 (October 2014), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Claimant's FAP group's adjusted gross income amount is found to be [REDACTED]

MDHHS factored [REDACTED] in housing costs; Claimant testimony conceded the amount as accurate. Claimant was issued the h/u utility standard of [REDACTED] which is the maximum allowance for utility obligations (see RFT 255). Claimant's total shelter costs are found to be [REDACTED]

DHHS only credits FAP benefit groups with what is called an "excess shelter" expense. This expense is calculated by subtracting half of Claimant's adjusted gross income from Claimant's total shelter obligation. Claimant's excess shelter amount is found to be [REDACTED] (rounding up to nearest dollar).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Claimant's FAP benefit group's net income is found to be [REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be [REDACTED] the same amount calculated by MDHHS.

DECISION AND ORDER

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

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Claimant's FIP eligibility, effective July 2015. It is ordered that MDHHS perform the following actions:

- (1) reinstate Claimant's FIP eligibility, effective July 2015, subject to the following findings:

- a. Claimant was a member of an eligible FIP group; and
 - b. MDHHS improperly failed to halt the pending closure of FIP eligibility after Claimant's submission of medical documents on June 25, 2015; and
- (2) initiate a supplement of any benefits improperly not issued.
- The actions taken by MDHHS are **PARTIALLY REVERSED**.



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

Date Signed: **8/28/2015**

Date Mailed: **8/28/2015**

GC/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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]