

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

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IN THE MATTER OF:

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████████████████████

Reg. No.: 15-004007
Issue No.: 1002; 3008
Case No.: ██████████
Hearing Date: April 20, 2015
County: MACOMB-DISTRICT 20
(WARREN)

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, a telephone hearing was held on April 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████, Hearings Facilitator.

ISSUES

Did the Department properly close Claimant's Family Independence Program (FIP) benefits effective April 1, 2015?

Did the Department properly reduce Claimant's Food Assistance Program (FAP) allotment to ██████████ effective April 1, 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. Claimant is an ongoing recipient of FIP and FAP benefits. See Exhibit 2, pp. 7-8.
2. On February 5, 2015, the Department sent Claimant a Verification Checklist (VCL), which was due back by February 17, 2015. See Exhibit 1, pp. 6-7. The VCL requested proof of heat expense, residential address, home rent, and non-heat electric expense. See Exhibit 1, pp. 6-7.

3. Claimant submitted the verifications on February 16, 2015, which was before the due date. See Exhibit 1, p. 1.
4. On March 4, 2015, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective April 1, 2015, ongoing, for failure to comply with the verification requirements. See Exhibit 2, pp. 1-6.
5. On March 4, 2015, the Notice of Case Action also notified Claimant that her FAP benefits would decrease to [REDACTED] effective April 1, 2015 to May 31, 2015, due to a shelter deduction amount change and a change in her net unearned income. See Exhibit 2, pp. 1-6.
6. The Department acknowledged that it closed Claimant's FIP benefits in error and Claimant's FAP benefits were not adjusted to reflect her current shelter and utility expenses. See Exhibit 1, p. 1.
7. On March 13, 2015, Claimant filed a hearing request, protesting her FIP case closure and her FAP allotment. See Exhibit 1, 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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

FAP benefits

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (January 2015), p. 10. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 11. These include, but are not limited to, changes in address and shelter cost changes that result from the move. BAM 105, p. 11 and see also BEM 554 (October 2014), pp. 12-30 (FAP allowable expenses for shelter and utility expenses). The Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (October 2014), p. 6. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, p. 6.

Additionally, the local office and client or Authorized Hearing Representative (AHR) will each present their position to the Administrative Law Judge (ALJ), who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (April 2015), p. 35. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHHS policy was appropriately applied. BAM 600, p. 38

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it improperly calculated Claimant's FAP benefits effective April 1, 2015.

First, the Department acknowledged that Claimant's FAP benefits were not adjusted to reflect her current shelter and utility expenses. See Exhibit 1, p. 1. As such, the Department failed to process Claimant's reported change in shelter and utility expenses in accordance with Department policy. BAM 105, pp. 10-11; BAM 220, p. 6 and BEM 554, pp. 12-30. The Department will recalculate Claimant's FAP benefits effective April 1, 2015, ongoing as Claimant is disputing her FAP allotment from this time period.

Second, the Department acknowledged that it failed to present FAP budgets in order for this ALJ to review whether Claimant's FAP benefits were properly calculated. As such, the Department also failed its burden of showing that it properly calculated Claimant's FAP benefits effective April 1, 2015, ongoing. See BAM 600, pp. 35-38.

FIP benefits

As a preliminary matter, Claimant appeared to argue that she should be receiving State Disability Assistance (SDA) benefits instead of FIP benefits. A review of Claimant's hearing request did not discover any dispute with the type of assistance she receives. In fact, Claimant disputed the closure of her FIP benefits rather than SDA benefits. See Exhibit 1, p. 2. The Department indicated that Claimant meant to check mark SDA. However, Claimant's Eligibility Summary indicated she is an ongoing recipient of FIP

benefits. See Exhibit 2, p. 7. As such, this ALJ will only review whether the Department properly closed Claimant's FIP benefits effective April 1, 2015, in accordance with Department policy. See BAM 600 (January 2015), pp. 4-6.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2015), p. 8. This includes completion of necessary forms. BAM 105, p. 8. For FIP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (October 2014), p. 6. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 6. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 6. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHHS representative are considered to be received the next business day. BAM 130, p. 6. The Department sends a negative action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it closed Claimant's FIP benefits effective April 1, 2015. See BAM 105, p. 8 and BAM 130, p. 6. The evidence established that Claimant submitted the verifications on February 16, 2015, which was before the VCL due date. See Exhibit 1, p. 1. The Department acknowledged that it closed Claimant's case in error. It should be noted that appears that Claimant's FIP benefits had been reinstated. Claimant's Eligibility Summary indicated she received ongoing coverage and Claimant also acknowledged receiving FIP assistance [REDACTED] for April 2015. Nevertheless, the Department originally closed Claimant's FIP benefits in error and this ALJ will order the Department to reinstate her FIP benefits effective April 1, 2015, if not already completed.

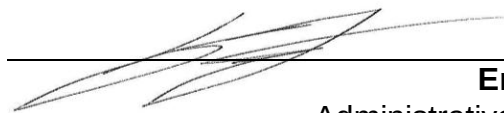
DECISION AND ORDER

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 did not act in accordance with Department policy when it (i) closed Claimant's FIP benefits effective April 1, 2015, ongoing; and (ii) improperly calculated Claimant's FAP benefits effective April 1, 2015, ongoing.

Accordingly, the Department's FAP and FIP decision is **REVERSED**.

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. Reinstate Claimant's FIP case as of April 1, 2015, ongoing (if not already completed);
2. Begin recalculating the FAP and FIP (if not already completed for FIP) for April 1, 2015, ongoing;
3. Issue supplements to Claimant for FAP and FIP (if not already completed for FIP) from April 1, 2015, ongoing; and
4. Notify Claimant of its decision.



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

Date Signed: **4/21/2015**

Date Mailed: **4/21/2015**

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]