

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-004927
Issue No.: 1003,3008, 3003
Case No.: ██████████
Hearing Date: April 30, 2015
County: WAYNE-DISTRICT 31
(GRANDMONT)

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 April 30, 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 ██████████, FIS Manager, and ██████████, Assistance Payments Supervisor.

ISSUE

Did the Department properly close the Claimant's FIP Cash Assistance case for failure to complete the redetermination?

Did the Department properly calculate the Claimant's Food Assistance FAP benefits?

FINDINGS OF FACT

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

1. The Department closed the Claimant's FIP case for failure to return the Redetermination. The Redetermination dated December 16, 2014 was sent to the Claimant at ██████████. The FIP closed on February 1, 2015. Exhibit B.
2. The Claimant at the time of the redetermination was homeless. The Claimant testified she notified the Department by letter that she was homeless. From July 2014 to November 2014 the Claimant was staying at the ██████████ address.

3. The Department records had the [REDACTED] address as the Claimant's address through the end of December 2014, but continued to send mail to the Claimant at the [REDACTED] address as late as February 2015. Exhibit D.
4. The Claimant's FAP also closed for failure to complete the semi-annual contact report in March 2015. The FAP benefits were reinstated in March of 2015. Exhibit D.
5. The Claimant began living at her current address [REDACTED] on January 5, 2015. The Claimant provided the Department a copy of her lease for [REDACTED] which began December 29, 2014. Exhibit C.
6. The Claimant completed a Change Report received by the Department on December 17, 2014. The Change Report indicates that the Claimant moved on November 21, 2014, no new address was provided; the form also indicates that the Claimant is getting ready to move and lost her job July 21, 2014 and has not been sent to Work First. The form did not indicate an address or that the Claimant was homeless, but did provide a phone number. Exhibit F.
7. The Claimant reported that she was no longer working to the Department on January 26, 2015 advising the Department that she was no longer working as of July 2014. Although the Claimant said she filed a proof of her employment ending in August 2014, the Department file did not contain notice of loss of employment.
8. The Claimant requested a hearing on March 24, 2015 regarding the closure of her (FIP) cash assistance case and the amount of her food assistance (FAP) 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.

In this case, the Claimant failed to complete a redetermination mailed to Claimant by the Department on December 16, 2014. Exhibit A. The Claimant provided the Department a new address at the end of January 2015 by providing a copy of the lease she signed on December 29, 2014. Exhibit C. The Department sent the redetermination to the address of record available to it in December 2014 on [REDACTED] in Detroit. The Claimant did not get the redetermination papers. The Department was also aware that the Claimant had moved, based upon her change report she provided to the Department on December 17, [REDACTED] indicating that she had moved in November 2014. The Claimant also provided a phone number to the Department on the change report which was not used by the Department to contact the Claimant. Thereafter, the FIP case closed on February 1, 2015. Based upon these facts, the Department was required to contact the Claimant and must reinstate the Claimant's FIP case retroactive to the closure date February 1, 2014 and complete the redetermination and supplement any FIP benefits the Claimant was entitled to receive.

The Department was unable to present evidence to support the computation of Claimant's FAP benefits from September 2014 through December 2014. As the hearing request received by the Department was dated March 24, 2015, the Claimant is not allowed to go back further than 90 days prior to the hearing request date to have benefits reviewed. The Claimant has 90 days to request a hearing. BAM 600 (4/1/15). The Claimant testified that she provided employment verification when she began employment in March 2014; the Department was unable to determine what it based its income determination for the September 2014, October 2014, November 2014 and December 2014 FAP budgets. The FAP benefit amounts for these months are essentially the same; \$575 in September, then \$601 thereafter through December 2014. The Department included earned income each month of \$1272 and unearned income from FIP of \$292. Although the Claimant requested a hearing to review the amount of the FAP benefits, she did not specify the months. The Department, believing there was no problem with the FAP benefits, was not prepared to address the amount of the benefits, or how they were calculated. Thus the Department was unable to present sufficient evidence to demonstrate how the FAP benefit amounts were determined for those months.

After a review of the testimony and evidence presented, it is determined that the Claimant did not report loss of employment until she filed the Change Report received by the Department on December 17, 2014. Exhibit F. At that time the Department should have sought verification of loss of employment. The Department first received verification of loss of employment from the Claimant on January 29, 2015 when the verification was provided. Based upon these circumstances, the Department would not have had information to change the employment income until January 29, 2014. Therefore, the Department must review its case file to determine if the earned income it used for September 2014 through December 2014 is based on pay stubs or verification

of employment and redetermine if the earned income it calculated for this period was correct. Unfortunately, because loss of employment was not verified and received timely, the Department correctly included the employment income. The Claimant also did not seek out the Department at the time after losing her job in July 21, 2014 to seek a change in FAP benefits based on loss of employment so her benefits could have been adjusted. Many months went by during the period when the Claimant was no longer working, but the FAP benefits remained the same because the Claimant did not provide timely information.

The Claimant received Food Assistance in February 2015 in the amount of \$925 based upon a group size of 6 persons, no income, rent of \$550 and a \$553 heat and utility allowance. Based upon the information provided to the Department and a review by the undersigned of the FAP budget, it is determined that the February 2015 benefits are correct.

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 closed the Claimant's FIP case for failure to complete the redetermination, as it had information available to it that the Claimant had moved and a phone number to contact the Claimant and, thus, should have attempted to locate the Claimant. As regards the FAP benefits for September 2014 through December 2014, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated those benefits and must redetermine the earned income information based upon information in its case file for those months.

DECISION AND ORDER

Accordingly, the Department's decision is

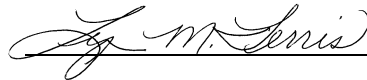
REVERSED with regard to the closure of the FIP case for failure to complete the redetermination; and,

AFFIRMED in part as it properly included employment income for September 2014 through December 2014; and,

REVERSED as the Department did not demonstrate how it determined earned income and overall FAP benefit amounts for September 2014 through December 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. The Department shall recalculate and redetermine the FAP benefit amount for September 2014 through December 2014 and the basis for the earned income amount and review the FAP benefit amounts as issued as to their correctness.
2. The Department shall provide the Claimant notice of its determination in writing.



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

Date Signed: **5/26/2015**

Date Mailed: **5/26/2015**

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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.

