

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

IN THE MATTER OF:

██████████
██
██

Reg. No.: 15-005666
Issue No.: 1004; 3008; 4004
Case No.: ██████████
Hearing Date: May 14, 2015
County: WAYNE-DISTRICT 31
(GRANDMONT)

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 May 14, 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; and ██████████ Medical Contact Worker.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment from February 1, 2015, ongoing?

Did the Department fail to process Claimant's alleged Cash application (State Disability Assistance (SDA)) in November of 2014?

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 FAP benefits. See Exhibit 2, p. 10.
2. For October 2014 and November 2014, Claimant received ██████████ in FAP assistance. See Exhibit 2, p. 10.
3. In November of 2014, Claimant alleged that he applied for Cash (SDA) assistance.

4. Claimant's application summary indicated that his last Cash application occurred on January 16, 2015, but no application submitted for November 2014. See Exhibit 2, p. 9.
5. On November 15, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits decreased to \$16 effective December 1, 2014 to December 31, 2014. See Exhibit 2, pp. 1-4.
6. On December 19, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits increased to \$46 effective January 1, 2015 to December 31, 2016. See Exhibit 2, pp. 5-8.
7. On April 6, 2015, Claimant filed a hearing request, protesting his FAP and Cash benefits. See Exhibit 1, p. 2.

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.

Cash benefits

Even though Claimant's hearing request did not specify his dispute with the Cash benefits, Claimant argued during the hearing that the Department failed to process his November 2014 Cash application.

Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110 (July 2014), p. 4. The Department registers a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 19. The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (July 2014), p. 14. For SDA cases, the Department certifies program approval or denial of the application within 45 days. BAM 115, p. 15. The Department automatically generates the client notice. BAM 115, p. 15. However, there are exceptions, which include 60 days for SDA applicants. See BAM 115, p. 15.

If the group is ineligible or refuses to cooperate in the application process, the Department certifies the denial within the standard of promptness to avoid receiving an overdue task in its system. BAM 115, p. 22. The Department sends a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 23. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 23.

In the present case, the Department presented Claimant's application summary, which did not show any Cash application for November 2014. See Exhibit 2, p. 9. Moreover, Claimant failed to provide any copy of his alleged Cash application completed in November 2014. The Department has demonstrated that Claimant did not submit any Cash application for November 2014 and the Department's actions are affirmed. Claimant can reapply for Cash (SDA) benefits.

FAP benefits – lack of jurisdiction

Even though Claimant's hearing request did not specify his dispute with his prior FAP allotment, Claimant disputed his decrease in FAP assistance effective December 1, 2014, ongoing. However, this Administrative Law Judge (ALJ) lacks the jurisdiction to address Claimant's dispute with his FAP allotment for December 2014 and January 2015. The Department's Notice of Case Actions to Claimant was dated November 15, 2014 and December 19, 2014. See Exhibit 2, pp. 1-8. However, Claimant did not file a request for hearing to contest the Department's action until April 6, 2015. See Exhibit 1, p. 2. Claimant's hearing request was not timely filed within ninety days of the Notice of Case Actions and are, therefore, dismissed for lack of jurisdiction. See BAM 600 (October 2014 and April 2015), pp. 4-6.

FAP benefits – February 1, 2015, ongoing

As a preliminary matter, this ALJ will review whether the Department properly calculated Claimant's FAP benefits from February 1, 2015, ongoing, as his hearing request was submitted within 90 days from this benefit period. See Exhibit 1, p. 2 and see BAM 600 (January 2015 and April 2015), pp. 4-5 (the Michigan Administrative Hearing System

(MAHS) may grant a hearing about any of the following: for FAP only, the current level of benefits or denial of expedited service).

The local office and client or Authorized Hearing Representative (AHR) will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600, p. 35. Both the local office and the client or AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 36. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, pp. 37-38.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits from February 1, 2015, ongoing. BAM 600, pp. 35-38. The Department failed to present a detailed FAP budget in order for this ALJ to determine if the Department properly calculated Claimant's FAP benefits (only presented a budget summary from the Notice of Case Action dated December 19, 2014). As such, the Department will recalculate Claimant's FAP benefits effective February 1, 2015, ongoing.

DECISION AND ORDER

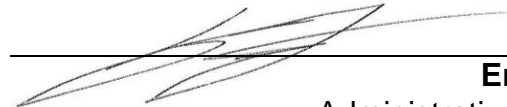
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the (i) Department has demonstrated that Claimant did not submit any Cash application for November 2014; (ii) this ALJ lacks the jurisdiction to address Claimant's FAP allotment for December 2014 and January 2015; and (iii) the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP allotment for February 1, 2015, ongoing.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to alleged November 2014 cash application and the December 2014 and January 2015 FAP allotment and **REVERSED IN PART** with respect to the FAP allotment for February 1, 2015, ongoing.

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. Begin recalculating the FAP budget for February 1, 2015, ongoing, in accordance with Department policy;

2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from February 1, 2015, ongoing; and
3. Notify Claimant of its decision.



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

Date Signed: **5/15/2015**

Date Mailed: **5/15/2015**

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.

