

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

IN THE MATTER OF:

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Reg. No.: 15-014125
Issue No.: 1001 3001
Case No.: ██████████
Hearing Date: September 23, 2015
County: Wayne (41)

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, an in-person hearing was held on September 23, 2015, from Detroit, Michigan. Participants included the above-named Claimant. ██████████, Claimant's spouse, testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████ ██████████, hearings liaison, and ██████████ ██████████ specialist.

ISSUES

The first issue is whether MDHHS properly calculated Claimant's start date for Family Independence Program (FIP) eligibility.

The second issue is whether MDHHS properly determined 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. On July 15, 2015, at 8:20 p.m., Claimant electronically sent MDHHS an application requesting FIP benefits.
2. Claimant was a member of a 4-person FAP benefit group.
3. On July 27, 2015, MDHHS approved Claimant's FIP application and issued FIP benefits, effective July 16, 2015, in the amount of ██████████ month.

4. On July 27, 2015, MDHHS determined Claimant to be eligible for █████ in FAP benefits, effective September 2015, in part, based on █████ in FIP income.
5. On July 31, 2015, Claimant requested a hearing disputing the start date of FIP benefits and FAP eligibility for September 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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute the start date of FIP eligibility. The analysis must first determine what date should be recognized as Claimant's application date.

It was not disputed that Claimant electronically submitted a FIP application to MDHHS on June 15, 2015, at 8:20 p.m. [For FIP benefits,] if the application is filed electronically after close of business (such as weekends, holidays, or after 5 p.m. EST on business days), the date of application is the following business day.

Claimant's AHR contended that MDHHS does not have authorization for such a policy. The burden of proof for the contention is properly placed with Claimant. Claimant's AHR provided no authority for the contention.

It is found that Claimant's date of application is June 16, 2015, due to Claimant's post-business hour submission. The analysis must then consider MDHHS policy to determine when Claimant is entitled to an issuance of FIP benefits.

[For FIP benefits,] provided the group meets all eligibility requirements, MDHHS is to begin assistance in the pay period in which the application becomes 30 days old. BAM 115 (July 2015), p. 25. If the application becomes 30 days old and the group has not met eligibility requirements, [MDHHS is to] begin assistance for the first pay period when it does. *Id.* Completion of the 21 day PATH application eligibility period (AEP) part of orientation which is an eligibility requirement for approval of the FIP application. BEM 229 (7/2013), p. 1.

Claimant's application was 30-days old on July 16, 2015. The FIP pay period of July 16, 2015 to July 30, 2015, is the earliest Claimant could receive FIP benefits. It was not disputed that MDHHS issued FIP benefits to Claimant beginning July 16, 2015.

Claimant's AHR contended that MDHHS should have informed his wife earlier in the application process that she would not receive FIP benefits until the end of July 2015. Claimant's AHR essentially contended that the failure by MDHHS to do so should result in FIP eligibility beginning from the application date.

The FIP interview process includes a client's completion of various forms; one of those forms is DHS-1538 (Work and Self-Sufficiency Rules). MDHHS testimony indicated that the DHS-1538 states that clients must complete 21 days of employment-related activities before becoming eligible for FIP benefits. As it happened, MDHHS did not obtain Claimant's signature on the DHS-1538 until July 20, 2015, more than 30 days after she applied for FIP benefits.

Ideally, Claimant would have been informed when she would begin receiving FIP benefits closer to her application date. Any failure by MDHHS to inform Claimant of the FIP benefit start date does not entitle Claimant to a remedy of FIP eligibility earlier than allowed by MDHHS policy. It is found that MDHHS properly issued FIP benefits to Claimant beginning July 16, 2015.

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 FAP eligibility for September 2015. MDHHS testimony indicated that the reduction was due to the inclusion of FIP income. The MDHHS testimony was plausible, though a full budget analysis is preferable in determining if Claimant's FAP eligibility was properly calculated.

MDHHS provided a budget summary (Exhibits 3-4) which included all FAP budget factors relied on by MDHHS. BEM 556 provides details on how FAP eligibility is calculated.

It was not disputed that Claimant received █████ in FIP. It was not disputed that Claimant had no other income.

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. There was no evidence that Claimant's group included an SDV member.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. Claimant's testimony conceded that she paid no day care, medical, or dependent care 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. The adjusted gross income amount is found to be [REDACTED]

It was not disputed that Claimant's monthly housing costs were [REDACTED] ([REDACTED] rounding to nearest dollar). MDHHS 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]

MDHHS 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.

Claimant's AHR's testimony indicated that Claimant should have received the pre-reduced FAP benefit amount for September 2015, because Claimant submitted a timely hearing request (see BAM 600). Claimant's AHR was correct. Technically, MDHHS should have issued FAP benefits to Claimant for September 2015, based on previous FAP budgeting, pending the outcome of the hearing. In this scenario, MDHHS would then be entitled to immediately recoup the over-issued benefits based on the finding that MDHHS properly reduced Claimant's FAP eligibility. In the interest of efficiency, MDHHS will not be ordered to issue FAP benefits to Claimant so that they may be later recouped.

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 for September 2015 as [REDACTED]. It is further found that MDHHS properly issued FIP benefits to Claimant effective July 16, 2015. The actions taken by MDHHS are **AFFIRMED**.



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

Date Signed: **9/28/2015**

Date Mailed: **9/29/2015**

CG/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.

