

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

IN THE MATTER OF:



MAHS Reg. No.: 15-023303
Issue No.: 1000; 3001
Agency Case No.: [REDACTED]
Hearing Date: February 10, 2016
County: WAYNE-DISTRICT 15

ADMINISTRATIVE LAW JUDGE: Jonathan Owens

HEARING DECISION

Following Petitioner'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 February 10, 2016, from Detroit, Michigan. The Petitioner represented herself at hearing. The Department was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly determine Family Independence Program (FIP) benefits and Food Assistance Program (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. In July 2014, the Petitioner was advised by the Department via a notice that she was eligible for a lump sum of FIP benefits. However these benefits were being withheld due to an outstanding debt for Child Daycare benefits.
2. On November 23, 2015, the Department issued a notice of case action indicating FIP denial ongoing, and FAP benefits approved ongoing.
3. On November 25, 2015, the Petitioner filed a hearing request that was not fully legible.

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 the instant case, the Petitioner appeared for her hearing and provided clarification regarding the issues for which she had filed her request for hearing. The Petitioner indicated that she was not appealing the FIP denial ongoing, but she wanted to dispute the Department's holding of her "lump" sum FIP benefits from June or July 2014. The Petitioner further wished to dispute the amount of her FAP benefits based upon the group size determined by the Department.

The Petitioner testified she had received a notice back in June or July 2014, which informed her that she was supposed to receive a "lump" sum of FIP benefits based upon the Department improperly closing her case. This notice further indicated that because the Petitioner had an outstanding debt for the Child Daycare program, those benefits would not be paid. The Petitioner indicated she had requested a hearing on this matter but that she was denied a hearing. The Petitioner did not have a copy of the notice she received, nor did she provide any documents demonstrating a prior request for hearing had been filed.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or

reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2015), p. 6. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In regards to the Petitioner's request regarding FIP benefits, this Administrative Law Judge (ALJ) finds the request is untimely. The Petitioner has the burden of demonstrating the alleged error made by the Department. In this case, the Petitioner simply asserted she received a notice indicating eligibility for a lump sum payment of FIP benefits and that these benefits were being withheld due to a repayment obligation. The Petitioner failed to provide a copy of this notice and/or submit any evidence demonstrating a prior hearing request filed within 90 days of the alleged notice. The only hearing request before this Administrative Law Judge was submitted on November 25, 2015. Since the request was not filed within 90 days of the notice being provided by the Department, this portion of the request is **DISMISSED**, as this ALJ has no jurisdiction.

The Petitioner, however, also filed a request regarding her FAP benefits, as indicated above. The Petitioner testified that her FAP benefits seem to drop, and then increase only when she complains to the Department. The Department testified the Petitioner's FAP benefits had fluctuated and indicated the group size had been changed. The Department was unable to provide a basis for the change in benefits. The Department agreed at the hearing that the benefit levels in question should be examined. The benefits dropped from [REDACTED], for the months of September, October and November 2015. The benefits for December were put back to [REDACTED]. The only basis for the drop appears to be the removal of the Petitioner from the group.

Based upon the testimony provided by the Department and the documents presented, this Administrative Law Judge finds the Department has not demonstrated a proper basis for the change in benefit levels. That is not to say that the benefits may not ultimately be as determined, but only that the Department has failed to demonstrate that the amount of FAP benefits for the months of September 2015 through November 2015 were properly calculated.

DECISION AND ORDER

Accordingly, the Department's decision regarding FAP benefits 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. Calculate FAP benefits for the Petitioner's case for the months of September, October and November 2015.
2. Supplement, if eligible, for any FAP benefits not properly authorized for those months.
3. Issue a notice to the Petitioner indicating the benefit levels and eligibility for the months in question.

As indicated above the hearing request regarding Petitioner's FIP benefits is DISMISSED, as the request is not timely.



Jonathan Owens
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/17/2016**

Date Mailed: **2/17/2016**

JWO/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:

