

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

IN THE MATTER OF:

██████████
██████████████████
██████
██████████████████████████████

MAHS Reg. No.: 15-023544
Issue No.: 1001;3008
Agency Case No.: ██████████
Hearing Date: February 04, 2016
County: Wayne-District 55

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 4, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department was represented by ██████████, Hearings Facilitator and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for Family Independence Program (FIP) benefits and calculate the amount of her 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. On or around November 5, 2015, Petitioner submitted an application for FIP benefits.
2. Petitioner sought deferral from participation in the PATH program as a parent who cares for a disabled child.
3. The Department did not properly process Petitioner's request for deferral and subsequently referred Petitioner to PATH orientation on November 30, 2015.

4. On December 10, 2015, the Department sent Petitioner a Notice of Case Action informing her that her FIP application was denied on the basis that she failed to verify requested information. (Exhibit A)
5. Petitioner was an ongoing recipient of FAP benefits.
6. Effective October 1, 2015, Petitioner's FAP benefits were reduced to \$308 monthly.
7. On December 21, 2015, Petitioner requested a hearing disputing the denial of her FIP application and the calculation of her 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).

FIP

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.

As a condition of receiving FIP benefits, PATH participants must complete the 21-day PATH application eligibility period (AEP) part of orientation which is an eligibility requirement for approval of the FIP application. BEM 229 (October 2015), pp. 1, 6. Unless deferred or exempt for another reason, failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. BEM 229, p. 6. This requires that the client (i) begin the AEP by the last date to attend as indicated on the PATH Appointment Notice, (ii) complete the PATH AEP requirements, and (iii) continue to participate in PATH after completion of the 21-day AEP. BEM 229, p.1.

In connection with her FIP application, Petitioner sought deferral from participation in the PATH program as a parent who provides care of a child with disabilities living in the home. BEM 230A (October 2015), pp. 16-18. Thus, if approved Petitioner would be considered a Non-WEI for purposes of PATH participation. BEM 230A, pp. 16-18. The Department is to temporarily defer an applicant with identified barriers that require further assessment or verification before a decision about a lengthier deferral is made, such as clients with serious medical problems or disabilities or clients caring for a child with disabilities. Additionally, clients should not be referred to orientation and AEP until it

is certain that barriers to participation such as lack of child care or transportation have been removed, possible reasons for deferral have been assessed and considered, and disabilities have been accommodated. BEM 229, p. 2.

In the present case, the Department testified that although the Notice of Case Action indicates the denial reason based on a failure to verify, Petitioner's FIP application was denied because she failed to complete the AEP as required. The Department acknowledged that this denial was improper however, as Petitioner's request for deferral was never processed. The Department stated that a determination of the deferral was not made and requests for verification of the child's disability were not sent to Petitioner. The Department further acknowledged that Petitioner should not have been referred to PATH while her deferral request was pending and confirmed that the denial based on a failure to complete the AEP was improper.

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 denied Petitioner's FIP application.

FAP

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 SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, Petitioner requested a hearing to dispute the decrease in her FAP benefits to \$308 effective October 1, 2015. The Department presented a FAP EDG Net Income Results Budget, which was reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits. (Exhibit B).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. BEM 500 (July 2015), pp. 1 – 5. The Department considers the gross amount of money earned from SSI in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (October 2015), pp. 28-32. State SSI Payments (SSP) are issued quarterly in the amount of \$42 and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount (\$14) as unearned income. BEM 503, p.33; see RFT 248 (January 2015), p. 1. Additionally, child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. The total amount of court-ordered direct support (which is support an individual

receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned income. BEM 503, pp. 6-9. When prospectively budgeting unearned income from child support, the Department is to use the average of child support payments received in the past three calendar months, unless changes are expected, excluding any unusual amounts or those not expected to continue. BEM 505 (July 2015), pp. 3-4.

The Department concluded that Petitioner had unearned income of \$963 which it testified consisted of \$733 in SSI benefits and \$14 in SSP benefits for Petitioner's child, as well as a three month average of \$216 in child support. The Department stated that it considered child support in the amount of \$648 for the month of April 2015, \$0 for May 2015 and \$0 for June 2015. While Petitioner confirmed that her child receives \$733 in SSI, Petitioner disputed that in October 2015 her child received SSI payments. Petitioner also stated that she has not received any child support since that one large payment in April 2015 which came as a result of a tax return. The Department reviewed the consolidated inquiry/child support search during the hearing and Petitioner's testimony was confirmed. Thus, the Department failed to properly calculate Petitioner's unearned income, as the April 2015 payment should have been excluded as an unusual amount of child support not expected to continue.

The deductions to income on the net income budget were also reviewed. Petitioner's group includes a senior/disabled/veteran (SDV) member of the FAP group. BEM 550 (October 2015), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2015), p. 1; BEM 556 (July 2013), p. 3.

In this case, Petitioner did not have any earned income and there was no evidence presented that she had any out of pocket dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on her confirmed three-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2015), p. 1. In calculating Petitioner's excess shelter deduction of \$135, the Department considered only the \$539 standard heat and utility deduction. BEM 554, pp. 16-19; RFT 255, p.1. The Department stated that it did not have any housing expenses on file for Petitioner which she disputed. Petitioner

testified that she has paid \$500 in rent for two and a half years and that she has previously provided a lease agreement several times.

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 after further review, because of the errors in the calculation of Petitioner's unearned income and excess shelter deduction, the Department did not act in accordance with Department policy when it determined that Petitioner was eligible for \$308 effective October 1, 2015.

DECISION AND ORDER

Accordingly, the Department's FIP and FAP decisions are **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. Register and process Petitioner's November 5, 2015, FIP application;
2. Determine Petitioner's eligibility for deferral based on her reported care of a disabled child;
3. Issue supplements to Petitioner for any FIP benefits that she was eligible to receive but did not from the date of application ongoing;
4. Recalculate Petitioner's FAP budget for October 1, 2015, ongoing;
5. Issue FAP supplements to Petitioner from October 1, 2015, ongoing; and
6. Notify Petitioner of its decisions in writing.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/11/2016**

Date Mailed: **2/11/2016**

ZB / tlf

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

