



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 29, 2016
MAHS Docket No.: 16-003735
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 April 20, 2016, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly calculate Petitioner's monthly Family Independence Program (FIP) and Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of FIP and FAP benefits.
2. In September 2015, Petitioner reported his wife's employment.
3. On September 21, 2015, Petitioner's wife's employer submitted a verification of employment with paystubs (Exhibit A).
4. Effective December 1, 2015 Petitioner's FIP benefits decreased to \$402. Petitioner was issued \$402 in monthly FIP benefits for December 2015 and January 2016. For February 2016 and March 2016, Petitioner's FIP benefits decreased to \$384 monthly.

5. Petitioner received FAP benefits totaling \$762 for December 2015 and \$767 for January 2016 and February 2016.
6. On March 14, 2016, the Department received a verification of employment completed by Petitioner's wife's employer indicating that Petitioner's wife was off due to medical reasons from February 5, 2016 to March 11, 2016 (Exhibit B).
7. Petitioner's FAP benefits increased to \$925 for March 2016.
8. Petitioner's FIP benefits increased to \$828 for April 2016.
9. On March 18, 2016, the Department received Petitioner's request for hearing disputing the Department's actions concerning his FAP, FIP and Child Development and Care (CDC) cases.

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).

In his March 18, 2016 hearing request, Petitioner requested a hearing concerning his FIP, FAP and CDC cases. At the hearing, he testified that the CDC issue had been resolved and he no longer wished to pursue a hearing concerning his CDC case. Therefore, Petitioner's hearing request concerning the CDC matter is dismissed. The hearing proceeded to address Petitioner's FIP and FAP cases.

At the hearing, the Department testified that Petitioner's FIP and FAP benefits had decreased effective December 1, 2015 due to his wife's employment. After Petitioner reported and verified that his wife had not worked or received any income from February 5, 2016 to March 11, 2016, his FIP benefits had increased to \$828 for the month of April 2016 and his FAP benefits had increased to \$925 for the month of March 2016. In his hearing request, Petitioner clearly indicates a concern regarding the decrease of his FIP and FAP benefits. At the hearing, Petitioner explained that he requested a hearing on March 18, 2016 to dispute his decreased FIP and FAP benefits between December 1, 2015 and March 31, 2016. Petitioner denied receiving any notices of case action advising him of changes to his FAP and/or FIP benefits, and the Department confirmed that there were no notices sent to Petitioner concerning changes in his benefits. Accordingly, Petitioner's hearing request is deemed timely, and the issue of Petitioner's decreased FIP and FAP benefits was properly presented for hearing. See BAM 600 (October 2015), p. 6.

FIP Benefits

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.

To determine the amount of FIP benefits a client is eligible to receive, income received by the certified FIP group (decreased by any available deductions) is subtracted from the payment standard, which is the maximum benefit amount that can be received by the certified group. BEM 515 (October 2015), p. 1; BEM 518 (October 2015), p. 1. The payment standard is dependent on the client's FIP certified group size. BEM 515, p. 3. In this case, the Department testified that there were six individuals in Petitioner's FIP group. Based on a certified FIP group size of six, the applicable payment standard is \$828. RFT 210 (December 2013), p. 1.

For ongoing FIP recipients, the Department applies the issuance deficit test to determine whether the client is eligible for FIP and the amount of the FIP grant. The issuance deficit test compares (i) the group's budgetable income for the income month decreased by the issuance earned income disregard to (ii) the certified group's payment standard for the benefit month, or, in this case, \$828. BEM 518, p. 3. The issuance earned income disregard reduces each person's countable earning by \$200 and then by an additional 50% of the person's remaining earnings. BEM 518, p. 5. If the issuance deficit test results in no deficit or a deficit of less than \$10, the client is ineligible for FIP for the benefit month. BEM 518, p. 3.

In this case, the Department did not present any FIP budget showing the calculation of Petitioner's FIP benefits and could not identify which of Petitioner's wife's paystubs were used to calculate the group's FIP grant. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's FIP grant for December 1, 2015 to March 31, 2016.

FAP Benefits

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 order to determine a client's monthly FAP allotment, the Department must budget the household's gross monthly earned and unearned income. BEM 550 (October 2015). The Department then reduces the household's gross monthly income by certain deductions based on the FAP group's circumstances and as permitted by Department policy to arrive at the FAP group's net income. BEM 556 (July 2013), pp. 1-7. The

amount of FAP benefits a group is eligible to receive is dependent on the FAP group's net income and group size. BEM 556, pp. 5-6; RFT 260 (October 2015), pp. 1-50.

In this case, the Department failed to present any FAP budgets showing the calculation of Petitioner's FAP benefits for December 1, 2015 to February 29, 2016. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's FAP benefits.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's FIP benefits for December 1, 2015 through March 31, 2016 and FAP benefits for December 1, 2015 through February 29, 2016.

DECISION AND ORDER

Petitioner's hearing request concerning his CDC case is **DISMISSED**.

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. Recalculate Petitioner's FIP and FAP budgets for December 1, 2015 through March 31, 2016;
2. Issue supplements to Petitioner for any FIP and/or FAP benefits he was eligible to receive but did not for December 1, 2015 through March 31, 2016;
3. Notify Petitioner in writing of its decision.

ACE/tlf



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

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