

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

IN THE MATTER OF:



Reg. No.: 14-017593
Issue No.: 1001; 3003; 3007
Case No.: [REDACTED]
Hearing Date: January 12, 2015
County: WAYNE-DISTRICT 76
(GRATIOT/SEVEN M)

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. After due notice, a telephone hearing was held on January 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included Cynthia Allen, Hearings Coordinator.

ISSUES

Did the Department properly deny Claimant's Family Independence Program (FIP) application effective November 1, 2014?

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective October 1, 2014?

Did the Department properly issue Claimant's ongoing and supplemental FAP benefits for the period of April 30, 2014 to September 30, 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 was an ongoing recipient of FAP benefits.
2. Effective October 1, 2014, Claimant's FAP benefits closed for failure to submit a Semi-Annual Contact Report (DHS-1046) (semi-annual). See Exhibit 1, pp. 7 and 17-19.

3. On [REDACTED] 2014, Claimant applied for FIP benefits.
4. On October 17, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits increased to \$11 for April 30, 2014. See Exhibit 2, pp. 3-7.
5. On October 17, 2014, the Notice of Case Action also notified Claimant that she would receive a FAP supplement of \$972 for the period of June 1, 2014 to September 30, 2014. See Exhibit 2, pp. 3-7.
6. Claimant's benefit summary inquiry indicated a total FAP supplement of \$972 for the period of June 1, 2014 to September 30, 2014. See Exhibit 2, pp. 1-2.
7. On October 17, 2014, the Department sent Claimant a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice instructing the Claimant to attend the PATH orientation on October 27, 2014. Exhibit 1, p. 12.
8. On October 27, 2014, Claimant failed to attend her scheduled orientation; however, Claimant attempted to reschedule her PATH orientation with the Department on October 27, 2014.
9. On November 17, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective November 1, 2014, ongoing, due to her failure to attend the PATH orientation. Exhibit 1, pp. 8-11.
10. On November 24, 2014, Claimant filed a hearing request, protesting her FIP denial and FAP benefits. See Exhibit 1, pp. 2-4.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of 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 Family Independence Agency) 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 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

FIP application

Clients must complete a 21 day PATH application eligibility period (AEP) in order for their FIP application to be approved. BEM 229 (July 2013), p. 1. PATH participants must complete all of the following in order for their FIP application to be approved: begin the AEP by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice; complete PATH AEP requirements; and continue to participate in PATH after completion of the 21 day AEP. BEM 229, p. 1. The Department denies the FIP application if an applicant does not complete all of the above three components of the AEP. BEM 229, p. 1. Clients can reapply for FIP at any time after their application is denied for failing to appear or participate with PATH. BEM 229, p. 5.

The Department will automatically issue a DHS-4785, PATH Program Appointment Notice, at application, member add, or when a client loses a deferral to schedule an appointment for each mandatory PATH participant. BEM 229, p. 6.

At the hearing, Claimant acknowledged receipt of the PATH Appointment Notice. A few days prior to her orientation appointment, Claimant testified that she was notified from a potential employer for a job interview. Claimant testified that the interview conflicted with her orientation appointment (interview on October 27, 2014). Claimant testified that she did not contact the Department ahead of time to reschedule her PATH orientation. Upon completion of her interview on October 27, 2014, Claimant testified that she went to her local DHS office, contacted her worker and asked to speak with her DHS caseworker in order to reschedule her orientation. Claimant testified that she was told that she could not speak to her caseworker and that she would receive a reschedule notice for her PATH orientation. Claimant testified that she did not receive any documentation other than the denial notice. Claimant testified that she did subsequently reapply for FIP benefits on November 8, 2014. Finally, Claimant testified that she attempted to contact her DHS worker multiple times, but to no avail.

It should be noted that Claimant's hearing request only disputes her FIP denial dated November 17, 2014. See Exhibit 1, pp. 2-4. As such, this Administrative Law Judge (ALJ) will not address Claimant's subsequent FIP application for lack of jurisdiction. See BAM 600 (October 2014), pp. 2-4. Claimant can request another hearing to dispute the subsequent FIP application.

The Department uses the DHS-1538, Work and Self-Sufficiency Rules, to explain a list of factors and/or conditions to clients at FIP application for each episode of assistance. See BEM 229, pp. 2-3. The Department ensures the client understands her responsibility to participate in employment-related activities including, but not limited to, calling before they are unable to attend a meeting or appointment and before they become noncompliant. BEM 229, p. 3.

PATH is administered by the Workforce Development Agency, State of Michigan through the Michigan one-stop service centers. BEM 230A (October 2014), p. 1. PATH

case managers use the One-Stop Management Information System (OSMIS) to record the clients' assigned activities and participation. BEM 230A, p. 1. Most work eligible individuals (WEIs) are referred to PATH provided by the one-stop service center serving the client's area when a WEI applies for FIP. See BEM 230A, p. 4. The last date for a client to make contact with PATH is 15 calendar days from the date of the PATH referral and the DHS-4785, PATH Appointment Notice, are sent. BEM 230A, p. 5. If the client calls to reschedule before the 15th day, the Department extends the Last Date for Client Contact on OSMIS. BEM 230A, p. 5. Either DHS or the one-stop service center has the capability of extending this date. BEM 230A, p. 5 and see also BEM 229, p. 7 (Either DHS or the one-stop service center may extend the last day the client has to attend AEP/orientation when necessary. Extend this date directly on OSMIS before the 15th day passes).

Based on the foregoing information and evidence, the Department improperly denied Claimant's FIP application effective November 1, 2014, in accordance with Department policy. It is evident that Claimant failed to contact the Department before her scheduled orientation appointment. Nevertheless, the Department failed to reschedule Claimant's orientation appointment. It appears that Claimant had to attend PATH by November 1-2, 2014. This date range is obtained from Claimant's own participant history provided by the Department and/or 15 days from the date of the PATH Appointment Notice. See Exhibit 1, pp. 12 and 14. Claimant credibly testified that she went to the local DHS office on October 27, 2014, in an attempt to reschedule her PATH orientation. In fact, Claimant's own hearing request stated that she attempted to speak with her DHS caseworker in order to reschedule the appointment. See Exhibit 1, p. 2. The last date for a client to make contact with PATH is 15 calendar days from the date of the PATH referral and the DHS-4785, PATH Appointment Notice, are sent. BEM 230A, p. 5. If the client calls to reschedule before the 15th day, the Department extends the Last Date for Client Contact on OSMIS. BEM 230A, p. 5. As such, the evidence established that Claimant contacted the Department on October 27, 2014, to reschedule her appointment. This is before the 15th day (November 1-2, 2014) of the PATH referral and the DHS-4785, PATH Appointment Notice. See BEM 230A, p. 4. The Department should have extended the last day the client had to attend AEP/orientation and reschedule her PATH orientation. See BEM 229, p. 7 and BEM 230A, p. 5.

Issuance of FAP benefits

Benefits are issued using the Electronic Benefit Transfer (EBT) system. BAM 400 (July 2014), p. 5. Clients have a Michigan Bridge card where their benefits are automatically deposited. BAM 400, p. 5. The client's ongoing benefits are issued based on the last digit of the grantee's recipient identification number. BAM 400, p. 5. The Department authorizes supplemental benefits when the regular issuance is less than the group is eligible for or for periods when the group was eligible but received no benefits. BAM 400, p. 5. The supplemental benefit amount is deposited into the client's EBT food benefit account. BAM 406 (July 2013), p. 1.

On October 17, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits increased to \$11 for April 30, 2014. See Exhibit 2, pp. 3-7. On October 17, 2014, the Notice of Case Action also notified Claimant that she would receive a FAP supplement of \$972 for the period of June 1, 2014 to September 30, 2014. See Exhibit 2, pp. 3-7. Claimant argued that she did not receive her total issuance amount and/or supplements.

In response, the Department provided Claimant's benefit summary inquiry, which shows a history of her issuance of program benefits. See Exhibit 2, pp. 1-2. For the period of April 2014 to September 2014, Claimant had two types of issuances: (i) her regular ongoing FAP issuance (i.e., \$84 issuance on July 9, 2014, for the benefit month of July 2014); and (ii) her supplemental issuance (i.e., \$263 issuance on October 17, 2014, for the benefit month of July 2014). See Exhibit 2, p. 1. The evidence established that Claimant received a total FAP supplement of \$972 for the period of June 1, 2014, to September 30, 2014. See Exhibit 2, pp. 1-2. Moreover, the evidence established that the Department properly issued FAP benefits to the Claimant for the period of April 30, 2014 to September 30, 2014. See Exhibit 2, pp. 1-2. As such, Claimant properly received her issuance of FAP benefits for the period of April 30, 2014 to September 30, 2014 (including supplemental), in accordance with Department policy. See BAM 400, pp. 5-7 and BAM 406, p. 1.

FAP case closure

During the hearing, the Department testified that Claimant's FAP benefits closed on September 30, 2014, due to her failure to return her redetermination before the end of the benefit period (September 30, 2014). See Exhibit 1, p. 1. However, it was discovered subsequently that Claimant's FAP benefits closed due to the failure to provide a semi-annual. See Exhibit 1, p. 7.

At the hearing, Claimant testified that she did not receive a redetermination or notice of missed interview, etc... Claimant testified that she did not have issues with her mail, other than the DHS correspondence she did not receive. The Department did not provide any copy of the alleged redetermination or semi-annual sent to Claimant around August or September of 2014.

The Department of Human Services must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (July 2014), p. 1. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. For FAP only, the Department sends a DHS-1046, Semi-Annual Contact Report, the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210, p. 8. A report is considered complete when all of the sections (including the signature section) on the DHS-1046 and the DHS 2240-A are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210, p. 9. If the DHS-1046 is not logged in by the 10th day of the sixth month, the Department will generate a DHS-1046A, Potential Food Assistance (FAP) Closure, to the client. BAM 210, p. 11. This reminder notice explains that the client must return the

DHS-1046 and all required verifications by the last day of the month, or the case will close. BAM 210, p. 11. If the client fails to return a complete DHS-1046 by the last day of the sixth month, the Department will automatically close the case. BAM 210, p. 11.

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 closed Claimant's FAP benefits effective October 1, 2014.

First, it is found that Claimant rebutted the presumption of proper mailing. The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Claimant credibly testified that she never received any redetermination or semi-annual from the Department. As a matter of fact, the Department failed to provide any evidence that it sent Claimant a redetermination or semi-annual, which supported her assertion that she never received such documentation.

Second, 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. 34. 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, p. 37. The Department failed to present any evidence that it sent Claimant a semi-annual. Thus, the Department failed its burden to show that it properly closed Claimant's FAP benefits effective October 1, 2014, for failure to provide a semi-annual. BAM 210, pp. 1-11 and BAM 600, pp. 34-37. The Department will reinstate Claimant's FAP benefits and redetermine her eligibility effective October 1, 2014.

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 Department (i) did not act in accordance with Department policy when it improperly denied Claimant's FIP application effective November 1, 2014; (ii) failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP benefits effective October 1, 2014; and (iii) acted in accordance with Department policy when it properly issued Claimant's ongoing and supplemental FAP benefits for the period of April 30, 2014 to September 30, 2014.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the issuance of FAP program benefits for April 2014 to September 2014 and REVERSED IN PART with respect to FIP application denial effective November 1, 2014 and FAP case closure effective October 1, 2014.

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. Initiate re-registration and re-processing of Claimant's FIP application dated [REDACTED], 2014;
2. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from November 1, 2014, ongoing;
3. Reinstate Claimant's FAP case as of October 1, 2014;
4. Recalculate Claimant's FAP budget for October 1, 2014, ongoing, in accordance with Department policy;
5. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2014, ongoing; and
6. Notify Claimant of its FIP and FAP decision in accordance with Department policy.


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

Date Signed: **1/16/2015**

Date Mailed: **1/16/2015**

EJF / cl

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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:


Dora Allen
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