

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

IN THE MATTER OF:



Reg. No.: 201242484
Issue No.: 2006; 3008; 3014
Case No.: [REDACTED]
Hearing Date: April 26, 2012
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 26, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits effective April 1, 2012, due to noncooperation with child support?

Did the Department properly close Claimant's Medical Assistance (MA) case effective April 1, 2012, due to noncooperation with child support?

Did the Department properly calculate Claimant's FAP budget for February 1, 2011, to March 31, 2012, based on a FAP group size of three?

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 and MA.
2. Claimant was receiving FAP benefits of FAP group size of three from February 1, 2011, to March 31, 2011.

3. The Department's system indicated that Claimant was noncooperative with her child support obligations on December 29, 2006, and did not list a compliance date.
4. On March 7, 2012, the Department sent Claimant a Notice of Case Action notifying her that, effective April 1, 2012, her FAP benefits were reduced because she was disqualified from her FAP group membership based on her noncooperation with child support requirements.
5. The Department also closed Claimant's MA case based on her failure to cooperate with child support reporting obligations.
6. On January 30, 2012, Claimant filed a hearing request, disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 ACS, R 400.3151 through R 400.3180.

□ The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Additionally, a client's cooperation with paternity and obtaining child support is a condition of MA and FAP eligibility. BEM 255. Parents must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255. Failure to cooperate without good cause results in disqualification for the adult member who fails to cooperate, which results in the closure of the adult member's MA case and the disqualification of the individual from the FAP group until the later of one month or when the individual cooperates. BEM 255. An adult member's MA case must have an ex-parte review before closure because of a failure to cooperate. BEM 255.

In this case, the Department testified that it closed Claimant's MA case based on her failure to comply with child support and reduced her FAP benefits based on her disqualification from her FAP group due to her noncooperation. The Department testified that it relied on a noncooperation that appeared on its system showing that Claimant had been in noncompliance with her child support reporting obligations with respect to ██████████ as of December 29, 2006. A computer printout of the screen the Department relied upon identifies ██████████ father on one line as "unknown" and indicates a non-cooperation date of December 29, 2006 with no comply date listed. However, the next line on the same screen lists ██████████ and identifies his father as ██████████. Claimant credibly testified that she was always in compliance with her child reporting obligations. She indicated that she called the 1-800 number for the Office of Child Support referenced in the Notice of Case Action notifying her of the change in her benefits and was told that she had no outstanding noncompliance. Claimant also testified that ██████████ was the father for all three of her children, consistent with the information on the Department's screen printout. No one from the Office of Child Support (OCS) was at the hearing to counter Claimant's credible testimony. Thus, the Department did not satisfy its burden of proof in this case to show that it closed Claimant's MA case and reduced her FAP benefits effective April 1, 2012, in accordance with Department policy. Furthermore, the Department failed to show that it held an ex-parte review before closing Claimant's MA case because of failure to cooperate.

At the hearing, Claimant, in reviewing the Department's exhibit showing her ongoing FAP benefits, noted that she had been receiving FAP benefits for a FAP group size of three from February 1, 2011, even though there were four members of her FAP group. It was unclear from the evidence at the hearing why the FAP benefits for the period from February 1, 2011, to March 31, 2012, listed Claimant's FAP group size as three. The Department agreed to review the reason these benefits were reduced. To the extent

the FAP group size was reduced because of the December 29, 2006, child support noncooperation or other error, the Department will recalculate Claimant's FAP budget for February 1, 2011, to March 31, 2012, to include the correct number of FAP group members and issue supplements for FAP benefits Claimant was eligible to receive during this period but did not.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly when

did not act properly when it reduced Claimant's FAP benefits effective April 1, 2012, and closed her MA case for failure to cooperate with child support reporting obligations and when it calculated Claimant's FAP benefits for the period from February 1, 2011, to March 31, 2012.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the child support noncooperation of December 29, 2006, from Claimant's record;
2. Reinstate Claimant's MA case from on or about April 1, 2012;
3. Begin recalculating Claimant's FAP benefits to include Claimant as a group member, in accordance with Department policy, for April 1, 2012, ongoing;
4. Review Claimant's benefits for February 1, 2011, to March 31, 2012, to determine whether Claimant was improperly removed as a FAP group member;
5. If Claimant was removed because of the December 29, 2006, noncompliance or other error, recalculate Claimant's FAP budgets from February 1, 2011 to March 31, 2012, in accordance with Department policy; and
6. Issue supplements for any MA and FAP benefits Claimant was otherwise eligible to receive but did not from February 1, 2011, ongoing.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 30, 2012

Date Mailed: April 30, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/cl

cc:

