

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201265629
Issue No.: 1006
Case No.: [REDACTED]
Hearing Date: March 11, 2013
County: Wayne (#19)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted from Detroit, Michigan on Monday March 11, 2013. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Path Case Manager), [REDACTED] (Triage Coordinator), [REDACTED] ("FIM").

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits effective August 1, 2012?

FINDINGS OF FACT

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

1. The Claimant was a FIP recipient.
2. On July 12, 2012 Claimant signed a Michigan Works document requesting that her FIP case be closed with the Department. (Exhibit 1, p.2)
3. On July 17, 2012 the Department sent Claimant Notice of Case informing her that her FIP case would close effective August 1, 2012 because she requested, in writing, that her cash assistance be stopped. (Exhibit 2)

4. On July 19, 2012, Claimant submitted in writing a request to withdraw the closure of her FIP case and requested that she be temporarily deferred from the Work First/Jobs, Education, and Training ("WF/JET") program due to a domestic violence issue. (Exhibit 3)
5. On July 16, 2012 the Department received Claimant's written hearing request, signed July 19, 2012, disputing the intended closure of her FIP case.
6. The Claimant's FIP benefits closed effective August 1, 2012.
7. The Department re-opened the Claimant's FIP case effective September 6, 2012. She received a supplement payment for FIP benefits for the second half of August 2012 only.

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.

A client may withdraw from a benefit program at any time. Such requests should be made in writing. BAM 110 (May 2012), p. 15. The Department will generate a Notice of Case Action that is sent to the client confirming the program closure. The Claimant may reapply any time. BAM 110 The Department policy requires that timely notice is given for a **negative action** unless policy specifies adequate notice or no notice. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. BAM 220 (July 2012), p. 10. Intended negative actions must be deleted in some situations: 1) when a timely hearing request is received by the Department and; 2) the client meets the requirement that caused the negative action before the negative action effective date. BAM 220, p. 10. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request the Department is required to reinstate program benefits to the former level before a hearing request was filed because of a negative action. BAM 600 (July 2012), p. 19.

In this case, Claimant submitted a timely written request to withdraw the request to close her FIP case and also a timely hearing request on July 16 & 19, 2012. The Department did not delete the negative action as required, but instead permitted the

Claimant's FIP case to close effective August 1, 2012. While the Department re-opened the Claimant's FIP case effective September 6, 2012, it only supplemented her FIP benefits for the 2nd half of August 2012. Based on the policy, Claimant's FIP case should have remained open and the negative action deleted based on both the timely hearing request and her written request to withdraw the earlier request to close her FIP case, which caused the negative action.

Accordingly, the Department did not establish that it acted in accordance with policy when it closed Claimant's FIP case.

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 not act properly in the closure of Claimant's FIP benefits effective August 1, 2012.

Accordingly, the Department's FIP decision is hereby, **REVERSED**.

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

1. The Department shall reinstate the Claimant's FIP benefits from the proposed date of closure August 1, 2012 and supplement for lost FIP benefits (if any) that the Claimant was otherwise eligible and qualified to receive, in accordance with Department policy.

/s/ _____
MICHELLE HOWIE
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/13/2013

Date Mailed: 3/13/2013

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

MH/hw

cc:

