

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-13672
Issue No.: 1025
Case No.: [REDACTED]
Hearing Date: April 25, 2013
County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on April 25, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUES

1. Did the Department properly close Claimant's Family Independence Program (FIP) case due to her failure to establish paternity and/or obtain child support?
2. Whether Claimant applied for FIP benefits on May 30, 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. On May 12, 2012, Claimant was placed in non-cooperation status with OCS.
2. On May 30, 2012, Claimant applied for FIP benefits; however, the Department did not issue a decision on that application.
3. On August 24, 2012, Claimant applied again for FIP benefits and received ongoing benefits until her case closure.

4. On November 2, 2012, the Department sent Claimant a Notice of Case Action informing her that the FIP case would close effective December 1, 2012, ongoing, due to her failure to establish paternity and/or obtain child support. Exhibit 1.
5. On November 19, 2012, Claimant was placed in cooperation status with OCS.
6. On November 14, 2012, Claimant filed a hearing request, protesting the Department's actions: (i) that the Department did not issue a decision on her May 30, 2012, application and (ii) the closure of the case.

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 1999 AC, R 400.3101 through Rule 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 1999 AC, R 400.3001 through Rule 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 AACS, R 400.3151 through Rule 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 1999 AC, R 400.5001 through Rule 400.5015.

As a preliminary matter, Claimant's November 2, 2012, Notice of Case Action addresses Claimant's Food Assistance Program (FAP) and FIP benefits. Claimant testified that she wanted to only address her FIP benefits. Therefore, this decision will only address Claimant's FIP benefits. Claimant's November 14, 2012 request for hearing regarding her FAP benefits is DISMISSED.

FIP Application

Any person, regardless of age, or their authorized representative (AR) may apply for assistance. BAM 110 (May 2012), p. 4. The Department must register a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 16. For FIP cases, the Department must certify program approval or denial of the application within 45 days. BAM 115 (May 2012), p. 12. If the group is ineligible or refuses to cooperate in the application process, the Department must certify the denial within the standard of promptness and also send a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 18.

At the hearing, Claimant presented evidence and testimony that she applied for FIP benefits online on May 30, 2012. Moreover, Claimant testified that she never received any response from the Department to her application. Claimant presented this evidence as Exhibit A and the Department did not object. The Department was provided with the Michigan Administrative Hearing Office in Detroit, Michigan, fax number and the Department was supposed to then fax Claimant's Exhibit A to the Detroit office after the hearing. However, the Detroit office never received Claimant's Exhibit via fax. Nevertheless, Claimant presented credible testimony that she did, in fact, apply for FAP benefits on May 30, 2012, and never received a response from the Department. Thus, the Department failed to process Claimant's May 30, 2012, application in accordance with Department policy. BAM 110, pp. 4 and 16; BAM 115, pp. 12 and 18.

Non-Cooperation with OCS

On May 12, 2012, Claimant was placed in non-cooperation status with OCS. On August 24, 2012, Claimant applied for FIP benefits and received ongoing benefits until her case closure. On November 2, 2012, the Department sent Claimant a Notice of Case Action informing her that the FIP case would close effective December 1, 2012, ongoing, due to her failure to establish paternity and/or obtain child support. On November 19, 2012, Claimant was placed in cooperation status with OCS.

The custodial parent of children 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 (December 2011), p. 1. Failure to cooperate without good cause results in disqualification. BEM 255, p. 1. Any individual required to cooperate who fails to cooperate without good cause, causes FIP group ineligibility for a minimum of one month. BEM 255, p. 10. For FIP applications, the client has 10 days to cooperate with the OCS. BEM 255, p. 10. The Department informs the client to contact the OCS in the verification check list (VCL). BEM 255, p. 10. The disqualification is imposed if the client fails to cooperate on or before the VCL due date when all of the following are true: there is a begin date of non-cooperation in the absent parent logical unit of work; there is not a subsequent comply date; support/paternity action is still a factor in the child's eligibility; and good cause has not been granted nor is a claim pending. BEM 255, p. 10.

At the hearing, the OCS testified that the non-cooperation for Claimant was entered by the Oakland County Prosecutor's Office for Claimant's failure to appear for two interviews. OCS then testified that Claimant was removed from non-cooperation status because she moved out of Oakland County. OCS also testified that Claimant never received any correspondence from the court regarding the non-cooperation status for May 12, 2012. Claimant testified that she first learned about the non-cooperation status when she received the November 2, 2012, Notice of Case Action.

Furthermore, the Department testified that after Claimant's August 24, 2012, application, the Department sent a Verification Checklist (VCL) on October 22, 2012, to Claimant. However, the Department testified that this VCL did not request any information regarding Claimant's non-cooperation status with OCS.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits. First, the non-cooperation status was entered on May 12, 2012. Claimant applied for FIP benefits after this date on August 24, 2012. BEM 255 states that for FIP applications, the Department informs the client to contact the OCS in a VCL. BEM 255, p. 10. However, the Department's testimony indicates that no such VCL was sent to inform Claimant about the non-cooperation. Second, OCS testimony indicated that Claimant was placed in non-cooperation status; however, Claimant never received any notice of such status. Claimant first learned about the non-cooperation status in the November 2, 2012, Notice of Case Action. Thus, the Department improperly closed Claimant's FIP benefits in accordance with Department policy because Claimant was never notified of the non-cooperation by Department procedures via a VCL nor was she notified of the non-cooperation by the court as per OCS testimony.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department (i) failed to process Claimant's May 30, 2012 FIP application and (ii) improperly closed Claimant's FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and on the record, finds that the Department did act properly. did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated above and on the record.

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

1. Remove Claimant's non-cooperation status with the Office of Child Support;
2. Reregister the FIP application with the effective date of May 30, 2012;
3. Issue supplements to Claimant for any FIP benefits she was eligible to receive from May 30, 2012, ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.

Claimant's November 14, 2012, request for hearing regarding her FAP benefits is DISMISSED.



Eric Feldman
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 1, 2013

Date Mailed: May 1, 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

EJF/pf

cc:

