

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-29849
Issue No.: 1025
Case No.: [REDACTED]
Hearing Date: June 6, 2013
County: Wayne (82-49)

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 telephone hearing was held on June 6, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly deny Claimant's Family Independence Program (FIP) application due to her failure to establish paternity and/or obtain child support?

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 September 13, 2012, Claimant was placed in non-cooperation status with the Office of Child Support (OCS) due to an absent parent. Exhibit 2.
2. On January 16, 2013, Claimant applied for FIP benefits. Exhibit 2.
3. On January 18, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting that Claimant comply with the OCS by January 28, 2013. Exhibit 2.
4. Claimant failed to comply with the OCS by the January 28, 2013 due date.
5. On January 28, 2013, the Department sent Claimant a Notice of Case Action informing her that the FIP application was denied effective February 1, 2013,

ongoing, due to her failure to establish paternity and/or obtain child support. Exhibit 1.

6. On February 8, 2013, Claimant filed a hearing request, protesting the Department's actions. Exhibit 1.

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, the Michigan Administrative Hearing System in Detroit, Michigan, attempted to contact the OCS with a phone number provided by the Department. However, two attempts were made to contact an OCS caseworker without any success. Thus, the hearing continued without any participation with an OCS caseworker.

On September 13, 2012, Claimant was placed in non-cooperation status with the OCS due to an absent parent. Exhibit 2. On January 16, 2013, Claimant applied for FIP benefits. Exhibit 2. On January 18, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting that Claimant comply with the OCS by January 28, 2013. Exhibit 2. Claimant failed to comply with the OCS by the January 28, 2013, due date. Thus, on January 28, 2013, the Department sent Claimant a Notice of Case Action informing her that the FIP application was denied effective February 1, 2013, ongoing, due to her failure to establish paternity and/or obtain child support. Exhibit 1.

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. Disqualification includes member removal as well as denial or closure of program benefits, depending on the type of assistance (TOA). 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: (i) there is a begin date of non-cooperation in the absent parent logical unit of work; (ii) there is not a subsequent comply date; (iii) support/paternity action is still a factor in the child's eligibility; and (iv) good cause has not been granted nor is a claim pending. BEM 255, p. 10.

At the hearing, Claimant testified that she first learned about the non-cooperation with the OCS after she applied for FIP benefits in January of 2013. Claimant testified that she received the VCL dated January 18, 2013, which notified her to comply with the OCS within 10 days. Claimant credibly testified that she attempted to contact the OCS after receiving the VCL letter in an attempt to resolve the non-cooperation. Claimant testified that the OCS called her back once. However, Claimant testified that she missed the phone call and attempted to call the OCS caseworker right after without any success. Claimant also testified she was unable to reach an OCS caseworker the times she called them before the VCL due date. Moreover, Claimant testified that even the Department attempted to assist Claimant in resolving the non-cooperation status.

Based on the foregoing information and evidence, the Department improperly denied Claimant's FIP application. First, Claimant credibly testified that she attempted to contact the OCS to resolve her non-cooperation status; however, she received no assistance from the OCS to resolve her issue. Moreover, Claimant testified that the Department even attempted to contact the OCS to resolve the non-cooperation issue. Both Claimant and the Department showed how they attempted to resolve the non-cooperation issue and the OCS failed in responding to their assistance requests. Second, the OCS was not present at the hearing to either explain why Claimant is in non-cooperation or rebut Claimant's 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 improperly denied Claimant's FIP application effective February 1, 2013, ongoing, in accordance with Department policy. BEM 255, pp. 1-10.


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 January 16, 2013;
3. Begin reprocessing the FIP application and recalculating the FIP budget for January 16, 2013, ongoing, in accordance with Department policy;
4. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from January 16, 2013, ongoing; and
5. Notify Claimant in writing of its decision in accordance with Department policy;


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

Date Signed: June 11, 2013

Date Mailed: June 11, 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 affect the substantial rights of the claimant,
 - 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:

