

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

IN THE MATTER OF:



Reg. No.: 2013-29930
Issue Nos.: 1003, 2006, 3008
Case No.: [REDACTED]
Hearing Date: June 6, 2013
County: Wayne (82-76)

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 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

1. Did the Department properly close Claimant's Family Independence Program (FIP) and reduce her Food Assistance Program (FAP) benefits for noncooperation with child support reporting obligations?
2. Did the Department properly close Claimant's Medical Assistance (MA) case for failure to complete the redetermination?

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 FIP, FAP and MA benefits.
2. On November 13, 2012, the Department sent Claimant a redetermination form (DHS-1010) concerning her ongoing eligibility for MA and FAP with a December 4, 2012, due date.
3. On January 18, 2013, the Department sent Claimant a Notice of Case Action informing her that her FIP case would close and her FAP benefits would be

reduced effective February 1, 2013, because she had failed to cooperate in establishing paternity or securing child support.

4. On January 19, 2013, the Department sent Claimant a Notice of Case Action notifying her that the MA case for her and her children would close effective February 1, 2013, because she had failed to complete the redetermination.
5. On February 13, 2013, Claimant filed a hearing request, protesting the Department's actions concerning her FIP, FAP and MA cases.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), and the Department of Human Services 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.

Closure of MA Case

The Department testified that Claimant's MA case closed because she had failed to complete and submit the redetermination sent to her on November 13, 2012, and due on December 4, 2012. The copy of the redetermination sent to Claimant shows that it concerned Claimant's FAP and MA cases.

The Department requires recipients of state benefits to complete redeterminations at least once every twelve months. BAM 210 (November 1, 2012), p. 1. MA and FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2.

At the hearing, Claimant testified that she did, in fact, complete and submit the redetermination form and completed a phone interview with her worker on December 4, 2012, the scheduled interview date. Claimant's testimony is supported by the circumstances in this case showing that, even though the redetermination concerned Claimant's FAP case as well as her MA case, the Department did not close Claimant's FAP case for failure to complete the redetermination. When a redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the client's FAP case. BAM 210, p. 9. The Department testified that Claimant's FAP and MA certification period expired December 31, 2012. However, on January 18, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would be reduced between February 1, 2013, and February 28, 2013, because of her noncompliance with child support. This established that Claimant continued to receive FAP benefits after the expiration of the December 31, 2012, certification period. The correspondence history showing that the Department sent Claimant medical verifications on December 4, 2012, is consistent with Claimant's testimony that she had contact with her worker that day, which was the redetermination telephone interview date. Furthermore, the Department testified that Claimant's continued receipt of FAP benefits was not due to Claimant filing a timely hearing request and requesting that her benefits continue pending the hearing. Based on the evidence presented, Claimant established that she completed the MA and FAP redetermination and the Department did not act in accordance with Department policy when closed Claimant's MA case on the basis that the redetermination was not completed.

Closure of FIP Case and Reduction of FAP Benefits

The January 18, 2013, Notice of Case Action notified Claimant that, effective February 1, 2013, her FIP case would close and her FAP benefits would be reduced because she had failed to cooperate with her child support reporting obligations. Department policy requires that 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 1, 2011), p. 1.

With respect to the child support noncooperation issue, the OCS participated in the hearing and testified that Claimant's child support case concerned her son, Noah, who was born January 16, 2012. Claimant testified that she had spoken to her OCS worker on December 1, 2011, concerning her son [REDACTED] paternity and at that time informed her worker that [REDACTED] and her unborn child shared the same father. The OCS stated that its notes showed that Claimant did discuss [REDACTED] paternity with OCS on December 1, 2011, and while there were no notes concerning [REDACTED], even if Claimant had discussed her pregnancy with her worker, OCS does not pursue actions concerning unborn children. While Claimant testified that she called and spoke to her OCS worker on the date of his birth [REDACTED], the OCS found no records of any telephone contact between OCS and Claimant on that date. OCS further credibly testified that it sent Claimant a First Customer Contact Letter on February 4, 2012, and a Final Contact Letter on July 26, 2012, both sent to the address Claimant verified on the record, requesting information concerning [REDACTED] paternity and Claimant did not respond to

either letter. Claimant denied receiving the letters but presented no evidence to rebut the presumption that she received the notices. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976). Under the facts in this case, where OCS did not have any evidence of any contact from Claimant prior to February 1, 2013, the effective date of the FIP case closure and FAP reduction, the Department acted in accordance with Department policy when it closed Claimant's FIP case and reduced her FAP benefits based on noncooperation with child support reporting obligations. BEM 255, pp. 10-12; BEM 212 (November 1, 2012), p. 7.

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 acted in accordance with Department policy when it closed Claimant's FIP case and reduced Claimant's FAP benefits but did not act in accordance with Department policy when it closed Claimant's MA case.

Accordingly, the Department is AFFIRMED IN PART with respect to its closure of Claimant's FIP case and reduction of FAP benefits due to noncooperation with child support reporting obligations and REVERSED IN PART with respect to closure of Claimant's MA case based on failure to complete the redetermination.

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

1. Reinstate Claimant's MA case as of February 1, 2013;
2. Begin reprocessing Claimant's MA and FAP redetermination;
3. Issue supplements to Claimant for any FAP benefits she is eligible to receive but did not from January 1, 2013, ongoing, based on the processed redetermination;
4. Provide Claimant with MA coverage she is eligible to receive from February 1, 2013, ongoing based on the processed redetermination;
5. Notify Claimant in writing of its decision; and
6. Take each of the preceding steps in accordance with Department policy.



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

Date Signed: June 12, 2013

Date Mailed: June 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 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

ACE/pf

cc:

