

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-30043
Issue No.: 1021
Case No.: [REDACTED]
Hearing Date: June 6, 2013
County: Wayne (82-17)

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 and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department properly closed Claimant's Family Independence Program (FIP) benefits?

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 November 27, 2012, Claimant applied for FIP benefits. Exhibit 1.
2. On November 27, 2012, Claimant notified the Department that she was pregnant with an expected due date of [REDACTED]. Exhibit 1.
3. On December 19, 2012, the Department opened Claimant's FIP benefits and the Department deferred Claimant from the FIP program due to a high risk pregnancy. Exhibit 1.
4. Claimant received FIP benefits partially for the month of December 2012 and received full FIP benefits for January 2013. Exhibit 1.

5. On December 19, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective February 1, 2013, ongoing, if Claimant did not provide verification of birth. Exhibit 1.
6. On [REDACTED], Claimant gave birth to her child. Exhibit 1.
7. On February 1, 2013, Claimant submitted to the Department the verification of birth. Exhibit 1.
8. On February 5, 2013, Claimant filed a hearing request concerning the closure of her FIP benefits. 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.

Direct Support Services (DSS) is administered by the Department pursuant to MCL 400.57a, *et. seq.*, and Mich Admin Code R 400.3603.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in the work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (November 2012), p. 1. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and obtain employment. BEM 230A, p. 1. Clients requesting a deferral from the work participation program due to pregnancy complications must provide medical verification that indicates that they are unable to participate. BEM 230A, p. 8. The pregnancy complications can be verified by a: note from client's doctor; DHS-49; DHS-54A; or DHS-54E. BEM 230A, p. 21. Additionally, a Claimant can be deferred from mandatory participation in employment services when she is in care of a child or post-partum recovery. BEM 230A, pp. 6-7. The Department should disregard one parent of a child under the age of two months up to two months when the newborn is in the home. BEM 230A, p. 7.

A FIP certified group may be composed of only adults under specified circumstances. BEM 210 (October 2011), p. 10. Groups with no eligible child may consist of a pregnant woman and, if married, her husband. BEM 210, p. 10. Verification of pregnancy is required when FIP eligibility is based solely on the pregnancy. BEM 210, p. 11. BEM 210 includes a list of verification sources when verifying Claimant's pregnancy. BEM 210, p. 12.

In this case, on November 27, 2012, Claimant applied for FIP benefits. Exhibit 1. On November 27, 2012, Claimant notified the Department that she was pregnant with an expected due date of [REDACTED]. Exhibit 1. On December 19, 2012, the Department opened Claimant's FIP benefits and it deferred Claimant from the FIP program due to a high risk pregnancy. Exhibit 1. Claimant received FIP benefits partially for the month of December 2012 and received full FIP benefits for January 2013. Exhibit 1. On December 19, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective February 1, 2013, ongoing, if Claimant did not provide verification of birth. Exhibit 1. On [REDACTED] [REDACTED] Claimant gave birth to her child. Exhibit 1. On February 1, 2013, Claimant submitted to the Department the verification of birth. Exhibit 1.

At the hearing, Claimant testified that she spoke with her caseworker both in December of 2012 and January of 2013. In December of 2012, Claimant testified that her caseworker told her that she had to provide the verification of birth after her delivery and

if not, her FIP case would close. Claimant testified she was unsure how many days the Department said she had to provide the verification documents to the Department. Claimant also testified that she attempted to contact the Department after her delivery because she had post-pregnancy medical complications. However, Claimant testified that the caseworker's mailbox was full. Nevertheless, Claimant testified that she spoke to her caseworker in January of 2013 regarding her post-pregnancy medical complications and her attempt to retrieve the verification documents.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (November 2012), p. 7. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 7. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 7. These include, but are not limited to, persons in the home. BAM 105, p. 7. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. The Department obtains verification when it is required by policy. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130, p. 1. The Department tells the client what verification is required, how to obtain it, and the due date by using the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, pp. 2-3.

Moreover, a negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (November 2012), p. 1. Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220, p. 1.

The Department testified that the December 19, 2012, Notice of Case Action stated that Claimant's FIP case would close effective February 1, 2013, ongoing, if the verification of birth was not received within thirty days of delivery. The delivery occurred on [REDACTED], and the verification of birth was not received until February 1, 2013.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP case. First, Claimant credibly testified that she notified the Department of her reported change regarding the birth of her child. BAM 105, p. 7. Once Claimant reported this change, the Department should have sent Claimant a VCL requesting verification of pregnancy and/or birth. BEM 210, pp. 11-12; and BAM 130, pp. 1-3. Second, the Department testified that the Notice of Case Action stated that Claimant had to provide the verification of birth. However, this is incorrect use of the Notice of Case Action. The Notice of Case Action notifies the claimant of positive and negative actions. BAM 220, p. 1. The Department should have sent Claimant a VCL first requesting the verification of birth. If Claimant failed to respond to the VCL, then the Department should have notified Claimant of her case closure by generating the appropriate notice of case action. BAM 130, pp. 1-3; and BAM 220, p. 1. Third, the Department testified that Claimant had thirty days from delivery to provide the verification of birth. Moreover, the Department testified that the Notice of Case Action

stated that Claimant had thirty days to provide the documentation. A review of Department policy does not indicate that Claimant has thirty days to provide such verification of birth. Additionally, a review of the Notice of Case Action does not indicate anywhere that Claimant had thirty days to provide such verification of birth. See Exhibit 1. Fourth, the Department should have deferred Claimant for up to two months from employment services because she was in care of a child under the age of two months. BEM 230A, pp. 6-7.

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 did not act in accordance with Department policy when it closed Claimant's FIP benefits effective February 1, 2013, ongoing. BAM 105, p. 7; BAM 130, pp. 1-3; BEM 210, pp. 11-12; and BEM 230A, pp. 6-7.


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 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. Reinstate Claimant's FIP case as of February 1, 2013, ongoing;
2. Begin recalculating the FIP budget for February 1, 2013, ongoing, in accordance with Department policy;
3. Supplement for FIP benefits that Claimant was entitled to receive if otherwise eligible and qualified for February 1, 2013, ongoing, in accordance with Department policy; and
4. Notify Claimant of the FIP determination 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 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:

