

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 201334966
Issue No.: 1038, 3008, 6000
Case No.: [REDACTED]
Hearing Date: April 16, 2013
County: Wayne 31

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on April 16, 2013. Claimant appeared and testified. During the hearing it was determined that Claimant's concern with Child Development and Care (CDC) was from February 2012, well beyond the 90 day time limit for requesting a hearing. In accordance with Department of Human Services Bridges Administration Manual (BAM) 600 (2013) The Child Development and Care (CDC) portion of Claimant's request for hearing is dismissed for lack of jurisdiction.

ISSUE

Did the Department of Human Services properly sanction Claimant's Family Independence Program (FIP) for failure to participate in employment and/or self-sufficiency related activities?

Did the Department of Human Services properly close Claimant's Food Assistance Program (FAP) for failure to provide required re-determination information?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of Family Independence Program (FIP) and Food Assistance Program (FAP) benefits.
- (2) On November 8, 2012, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Family Independence Program (FIP) would close on December 1, 2012 due to her failure to participate in employment and/or self-sufficiency related activities.
- (3) On November 13, 2012, Claimant was sent a Redetermination Form (DHS-1010) for her Food Assistance Program (FAP). A telephone interview was scheduled for December 11, 2012.

- (4) On November 11, 2012, Claimant did not participate in the scheduled telephone interview. Claimant was sent a Notice of Missed Appointment (DHS-254) form.
- (5) On January 1, 2013, Claimant's Food Assistance Program (FAP) re-determination process had not been completed and her Food Assistance Program (FAP) benefits ended.
- (6) On January 17, 2013, Claimant submitted a request for hearing about her Family Independence Program (FIP) closing, her Food Assistance Program (FAP) and her Child Development and Care (CDC) having been pending since last February.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Department's intended action to Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) were taken for different reasons. The Department sanctioned Claimant's Family Independence Program (FIP) for failure to participate in employment and/or self-sufficiency related activities. Claimant's Food Assistance Program (FAP) was closed due to her failure to submit her Redetermination Form (DHS-1010) and required verifications.

The Department did not submit any evidence regarding the sanction of Claimant's Family Independence Program (FIP). The Department incorrectly reasoned that since Claimant had not submitted a timely request for hearing about her Family Independence Program (FIP) that she was not able to request a hearing at all. In accordance with BAM 600 page 4, Claimant's January 17, 2013 request for hearing was submitted within 90 days of the November 8, 2012 date of the written notice of case action. The Department has not met its initial burden of going forward with sufficient evidence to show a sanction of Claimant's Family Independence Program (FIP) was correct. Therefore the action cannot be upheld.

Regarding Claimant's Food Assistance Program (FAP), Claimant testified that she did not participate in an interview on December 11, 2012. Claimant also testified that she

sent the Department case worker an Email on December 13, 2012 and dropped off the Redetermination Form (DHS-1010) on December 21, 2012. Claimant also testified that she had checked on the sign in log and that the Department does not have the information from that day. When specifically asked Claimant testified that she did not participate in any type of interview by December 31, 2012.

Claimant's case worker, [REDACTED], was present at the hearing and testified that the Redetermination Form (DHS-1010) was not received so she did not make an entry on BRIDGES that it was received or completed.

The totality of evidence in this record does not convince this Administrative Law Judge that Claimant submitted the required Redetermination Form (DHS-1010) prior to closure of the Food Assistance Program (FAP).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department has not met its initial burden of going forward with sufficient evidence to show a sanction of Claimant's Family Independence Program (FIP) was correct. Therefore the action cannot be upheld.

It is ORDERED that the actions of the Department of Human Services, regarding Claimant's Family Independence Program (FIP), are REVERSED.

It is further ORDERED that Claimant's Family Independence Program (FIP) be reinstated and any benefits she was otherwise eligible for but did not receive, shall be supplemented.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly closed Claimant's Food Assistance Program (FAP) for failure to provide required re-determination information.

It is ORDERED that the actions of the Department of Human Services, regarding Claimant's Food Assistance Program (FAP), are UPHeld.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 4/24/13

Date Mailed: 4/29/13

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or

201334966/GFH

reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

GFH/tb

cc:

