

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201353363
Issue No.: 3004
Case No.: [REDACTED]
Hearing Date: July 18, 2013
County: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 July 18, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Authorized Hearing Representative (AHR)) and [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Assistance Payments Supervisor).

ISSUE

Did the Department properly deny Claimant's application for Family Independence Program (FIP) benefits and properly close Claimant's Food Assistance Program (FAP) benefits due to failure to comply with the verification requirements?

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 active for FAP.
2. On April 15, 2013, the Department mailed Claimant a Redetermination (DHS-1010) packet, which was due by May 6, 2013.
3. Claimant submitted an online FIP application on or about May 22, 2013.
4. On May 24, 2013, Claimant, during a telephone interview with the Department, withdrew her FIP application.

5. On May 24, 2013, the Department mailed Claimant an Application Notice (DHS-1150) which indicated that her FIP application was denied because she withdrew or failed to complete the application process.
6. On May 30, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed her FAP case after April 30, 2013 due to a failure to meet interview requirements.
7. On June 7, 2013, Claimant requested a hearing concerning both FIP and FAP.

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 Mich Admin Code, R 400.3101 through R 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 Mich Admin Code, R 400.3001 through R 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 R 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 Mich Admin Code, R 400.5001 through R 400.5015.

The Department must periodically redetermine an individual's eligibility for active programs. BAM 210. The redetermination process includes thorough review of all eligibility factors. BAM 210. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210. A complete redetermination is required at least every 12 months. BAM 210.

For FAP, benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. BAM 210. If the client does not complete the redetermination process, the Department will allow the benefit period to expire. BAM 210.

The Department must inform clients of the various options (if applicable) to qualify for FIP and the right to select the most beneficial option. BAM 105. In FIP, this is usually the option that results in the largest cash grant; see BEM 210. BAM 105.

A person may withdraw an application at any time before it is disposed on Bridges. BAM 110. A client/Authorized Representative (AR) may withdraw the application any time before it is disposed on Bridges. BAM 110. However, if clients have an AR, they must first revoke the AR's authorization to represent them before the clients may withdraw the application. BAM 110. The signature of the AR is not required. BAM 110. Document the withdrawal request in Bridges. BAM 110. To confirm it, Bridges will automatically generate a notice of case action to the client. BAM 110. The client may reapply any time. BAM 110.

Here, the Department closed Claimant's FAP case because she failed to return the redetermination form. Claimant and her AHR did not dispute the Department's contention regarding the FAP closure based on the failure to return the redetermination. Claimant does, however, challenge the Department's decision to deny her FIP application because she did not knowingly withdraw her FIP application due to a disability. Claimant's AHR contends that the Department "bullied" Claimant into withdrawing her FIP application.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*,

394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. With regard to Claimant's request for a hearing concerning FAP, there is no dispute that Claimant failed to return the redetermination packet. Under these circumstances, the Department is permitted to allow the FAP case to close.

With regard to the FIP issue, this Administrative Law Judge finds the Department's version of events more credible than Claimant's. The evidence shows that the Department did not knowingly and intentionally force Claimant to withdraw her FIP application. While Claimant may have been confused and felt pressured to withdraw her FIP application, there is no evidence that the Department forced her to do so against her will. This Administrative Law Judge finds that the Department acted properly and that Claimant voluntarily withdrew her FIP application. It should be noted that Claimant is free to re-apply for assistance if necessary.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly when it closed Claimant's FAP case and denied the FIP application.

Accordingly, the Department's FIP and FAP decisions are **AFFIRMED**.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 22, 2013

Date Mailed: July 23, 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

CAP/aca

cc:

