

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201363517
201360470
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: November 7, 2013
County: St. Joseph

ADMINISTRATIVE LAW JUDGE: Kevin Scully

REHEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10.

The Department of Human Services (Department) received the Claimant's requests for administrative hearings on July 24, 2013, and August 7, 2013, protesting closure of her Family Independence Program (FIP) benefits. The Michigan Administrative Hearing System (MAHS) conducted in-person hearings on October 8, 2013, and the Claimant's hearing requests were dismissed by Administrative Law Judge Aaron McClintic.

The Claimant protested the dismissal of her hearing requests and the Michigan Administrative Hearing System (MAHS) granted a rehearing for the cases designated as Register # 201363517 and Register #2013604701.

The Claimant waived her right to advanced notice of the rehearing, and an in-person hearing was held on November 7, 2013, from the Department's offices in Centreville, Michigan. Participants on behalf of Claimant included [REDACTED], and her husband, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

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

FINDINGS OF FACT

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

1. The Claimant is an ongoing Family Independence Program (FIP) recipient.
2. On July 16, 2013, the Department notified the Claimant that it would close her Family Independence Program (FIP) benefits as of September 1, 2013.
3. On July 24, 2013, the Department received the Claimant's request for a hearing, protesting the closure of her Family Independence Program (FIP) benefits.
4. On August 5, 2013, the Department notified the Claimant that it would close her Family Independence Program (FIP) benefits as of September 1, 2013.
5. On August 7, 2013, the Department received the Claimant's request for a hearing, protesting the closure of her Family Independence Program (FIP) benefits.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.

- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (July 1, 2013), p 4.

The Claimant was an ongoing Family Independence Program (FIP) recipient. The Department sent the Claimant two notices that her Family Independence Program (FIP) benefits would be closed and these notices were mailed on July 24, 2013, and August 7, 2013. The Claimant protested both of these notices by submitting timely requests for hearings.

At the Claimant's rehearing on November 7, 2013, the Department's representative testified that it was not disputing that the July 24, 2013, and August 7, 2013, closure notices were improper.

The Claimant argued that the Department was not acting in accordance with policy when it requested verification of information concerning her children, and that her response to these requests was used as a basis for the closure of her Family Independence Program (FIP) benefits.

The issue before this Administrative Law Judge is not whether the Department properly followed all of its policies, but whether there was a proper denial, reduction, suspension, termination, or delay of the Claimant's Family Independence Program (FIP) benefits and services, or whether the Department placed improper restrictions under which these benefits or services were provided.

While it is a reasonable expectation that the Department will follow its own policies, the issues that fall under the jurisdiction of this Administrative Law Judge are limited to those outlined in BAM 600.

In this case, there was a termination of Family Independence Program (FIP) benefits, and the Department has conceded that this termination was improper. The Michigan Administrative Hearing System does not supervise the Department to ensure proper application of its policies.

However, it is the role of the Michigan Administrative Hearing System (MAHS) to grant the Claimant a fair hearing concerning her eligibility to receive benefits. The Department has the burden of presenting evidence to establish that its actions were proper, and in this case, the Department had conceded that it is unable to establish that the closure of benefits was proper. Therefore, the Department's closure of the Claimant's Family Independence Program (FIP) benefits is reversed.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's Family Independence Program (FIP) benefits.

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a determination of the Claimant's eligibility for the Family Independence Program (FIP) as of September 1, 2013.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 11/15/2013

Date Mailed: 11/15/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;

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- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

KS/sw

cc:

