

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

IN THE MATTER OF:

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Reg. No.: 2014-5634
Issue Nos.: 1005, 6015
Case No.: ██████████
Hearing Date: November 20, 2013
County: Wayne (82-31)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING 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. After due notice, a telephone hearing was held on November 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

ISSUE

Did the Department properly deny Claimant's application for Family Independence Program (FIP) and Child Development and Care (CDC) 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 August 27, 2013, Claimant applied for CDC and FIP benefits.
2. On September 11, 2013, Claimant applied for CDC benefits.
3. On August 28, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting verification of unearned income and her daughter's school attendance by September 6, 2013.
4. On September 10, 2013, Claimant submitted a Verification of Student Information concerning her daughter.

5. On September 18, 2013, the Department sent Claimant a Notice of Case Action denying her CDC and FIP applications.
6. On October 4, 2013, Claimant filed a request for hearing concerning the denial of her FIP and CDC applications.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Additionally, Claimant requested a hearing concerning the denial of her FIP and CDC application. Her request for hearing was tied to the September 18, 2013, Notice of Case Action denying her application for FIP and CDC. Although Claimant stated at the hearing that she also had concerns regarding her Food Assistance Program (FAP) case and the September 18, 2013, Notice of Case Action advised Claimant that her FAP case would close effective October 1, 2013, because she had failed to verify unearned income, Claimant's hearing request did not identify FAP as a concern. Therefore, her hearing was limited to the issue of the denial of the FIP and CDC application. Claimant is advised that she may request a hearing concerning the closure of her FAP case in accordance with Department policy. BAM 600 (July 2013), p. 5 (requiring that a client request a hearing within 90 days of the date of a written notice of case action).

Denial of FIP Application

At the hearing, the Department testified that, in processing Claimant's August 27, 2013, FIP and CDC application, it issued the August 27, 2013, VCL requesting verification of unearned income and school attendance for Claimant's school-age child. At the hearing, the Department acknowledged that Claimant did not have any unearned income and it did not have any basis to request verification of unearned income.

However, it contended that Claimant's application was properly denied because Claimant failed to timely submit the Verification of Student Attendance by the September 6, 2013, VCL due date.

As a condition of FIP eligibility, a dependent child age 6 to 15 must attend school full time. BEM 245 (July 2013), p. 1. The Department must accept the client's statement that a 6-year-old child is enrolled and attending school full time unless questionable. BEM 245, p. 8. The client must verify school enrollment at application for a child age 7 or older. BEM 245, p. 8.

In this case, the program request summary submitted by the Department shows that, at the time of a September 24, 2013, FIP application, Claimant's school-age child was 6 years old. Therefore, the child was 6 years old at the time of the August 27, 2013 application. As such, the Department did not act in accordance with Department policy when it requested verification of school enrollment and attendance in the absence of any reason to believe that the child's attendance was questionable. Furthermore, although Claimant did not submit the school verification by the September 6, 2013, due date, because she submitted it on September 10, 2013, **before** the September 18, 2013, Notice of Case Action denying her FIP application was sent to her, the Department could not rely on failure to provide verification to deny the FIP application. See 115 (July 2013), p. 23; BAM 220 (July 2013), p. 12. Under the facts in this case, the Department did not act in accordance with Department policy when it denied the FIP application for failure to verify school attendance.

Denial of CDC Application

The Department testified that Claimant's CDC case was denied because she lacked a need for benefits. The CDC program provides a subsidy for child care services for qualifying families when (i) the parent/substitute parent is unavailable to provide the child care because of employment, participation in an approved activity and/or because of a condition for which treatment is being received and (ii) care is provided by an eligible provider. BEM 703 (July 2013), p. 1. A valid need exists when a client needs child care to participate in an employment preparation and/or training activity approved by the Department or the Michigan Works Association. BEM 703 (July 2013), pp. 3-4.

Claimant testified that she had requested CDC benefits in order to participate in the PATH program. Although the Department testified that Claimant did not identify the need for CDC benefits in her August 27, 2013 application, the application requested FIP benefits and the Department acknowledged that Claimant would be required to participate in the PATH program in connection with her FIP eligibility. Because, as discussed above, the FIP application was improperly denied, the Department did not act in accordance with Department policy when it concluded that Claimant lacked a need for CDC benefits.

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 did not

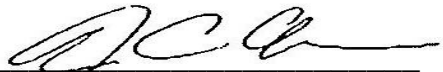
act in accordance with Department policy when it denied Claimant's August 27, 2013 FIP and CDC application.

DECISION AND ORDER

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. Reregister Claimant's August 27, 2103, CDC and FIP application;
2. Reprocess the application;
3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from August 27, 2013, ongoing;
4. Issue supplements to Claimant's CDC provider for any CDC benefits Claimant was eligible to receive but did not from August 27, 2013, ongoing; and
5. Notify Claimant in writing of its decision.



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

Date Signed: November 25, 2013

Date Mailed: November 25, 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;
- 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

ACE/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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