

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg No.: 2013-68204
Issue No.: 1004
Case No.: ██████████
Hearing Date: November 20, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Wednesday, November 20, 2013. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████.

ISSUE

Whether the Department properly implemented the Hearing Decision under registration number 2013-52898?

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 July 17, 2013, a hearing was held regarding a denial of a June 1, 2013, application for Family Independence Program (FIP) benefits for Claimant's niece and nephew, as Claimant being an ineligible grantee.
2. On July 24, 2013, a Hearing Decision was mailed that reversed the Department's denial and ordered the Department to re-register and process the June 1, 2013 application. (Exhibit 4)

3. On July 30, 2013, the Department, through a help desk ticket, found the June and July denial “stands because the judge did not order the sanction to be removed so per policy denial stands.” (Exhibit 1, p. 1)
4. On August 12, 2013, the Department sent a Notice of Case Action to Claimant informing her that the application for FIP benefits was denied based on the FIP sanction. (Exhibit 2)
5. On September 26, 2013, the Department received Claimant’s timely written request for hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables (RFT).

The 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, Rules 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (“ADC”) program effective October 1, 1996.

In this case, Claimant was previously sanctioned for failing to participate in work-related activities. Claimant is not disputing the 3 month sanction. Instead, Claimant, as the legal guardian, applied for FIP benefits on behalf of her niece and nephew. The issue presented at the July 17, 2013, hearing was whether Claimant could be an ineligible grantee of FIP benefits on behalf of the niece and nephew when she was subject to a FIP employment-related sanction.

The Hearing Decision mailed on July 24, 2013 provided:

Claimant, as the legal guardian for her niece and nephew, is not a mandatory FIP EDG member. BEM 210 (January 2013), pp. 4, 5. Non-parent caregivers who are not eligible for cash assistance or choose not to request cash assistance are classified as ineligible grantees. BEM 210, p. 7; BEM 515 (November 2012), p. 2. Ineligible caretakers are not recipients of FIP, although the caretaker receives FIP benefits for the children as the children’s protective payee. BEM 230A (January 2013), p. 14; BAM 420 (May 2013), p. 1, 5. While a group is ineligible for FIP benefits if a *WEI* (work-eligible individual) in the group is subject to an employment-related noncompliance while a FIP application is pending, an ineligible caretaker is a *non-WEI*. BEM 233A (January 2013), p. 5; BEM 228 (January 201), p. 3. Furthermore, a FIP three-month, six-month or lifetime penalty is not applied to ineligible caretakers. BEM 233A, p. 7.

Because Claimant applied on June 1, 2013, for FIP benefits for her niece and nephew with herself as the ineligible caretaker, she is not a mandatory member of the children's FIP group and, if the children are eligible to receive FIP benefits, she would receive FIP benefits on their behalf only as their protective payee. Because Claimant applied for FIP benefits as the children's ineligible caretaker, she is a non-WEI, and it follows that any employment-related disqualification Claimant was subject to should not have been considered in processing the Claimant's FIP application for benefits for the children. Thus, the Department did not act in accordance with Department policy when it denied Claimant's June 1, 2013, FIP application.

The Department did not appeal this decision. When implementing the decision and processing the June 1st application, the Department once again, denied the application for the exact same reasons; Claimant had a work-related sanction. During the hearing it was clear the local office attempted to implement the decision but was unable to because the ALJ did not order the work-related sanction be removed. This determination ignores the above analysis that concluded, despite the sanction, because Claimant was not a mandatory FIP EDG member, she was able to apply for benefits as an ineligible grantee on behalf of her niece and nephew. As such, the work-related sanction, would not impact the niece and nephew's FIP eligibility. Because the Department failed to process the June 1st application showing Claimant as the ineligible grantee, the Department failed to process the application in accordance with the hearing decision. For the foregoing reasons, the Department's implementation of the hearing decision mailed on July 24, 2013, is REVERSED.

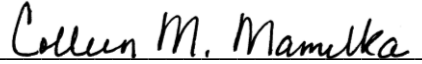
DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department's implementation of the Hearing Decision mailed on July 24, 2013, under registration number 2013-52898 is REVERSED.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER.

1. The August 12, 2013, Notice of Case Action is REVERSED as it does not comply with the ALJ Hearing Decision mailed on July 24, 2013, under registration number 2013-52898.
2. Re-register and process the June 1st application showing Claimant as an ineligible grantee.
3. Notify Claimant of the determination in accordance with Department policy.

4. Supplement Claimant as the protective payee for any FIP benefits that the niece and nephew were eligible to receive based on the June 1, 2013, FIP application.


Colleen M. Mamelka
Administrative Law Judge/Manager
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 10, 2013

Date Mailed: December 11, 2013

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

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

CMM/tm

cc: 