

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-11510
Issue No.: 3001; 2001
Case No.: [REDACTED]
Hearing Date: December 10, 2013
County: Calhoun

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 December 10, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and her husband [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist (ES), Cassandra Halder and Lead Support Specialist (SS), [REDACTED].

ISSUES

Did the Department properly close Claimant's husband's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

Did the Department properly sanction Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

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 received: FAP benefits.
2. Claimant's [REDACTED] received: MA benefits.

3. On October 1, 2013, the Department sanctioned Claimant's FAP case due to her [REDACTED] non-cooperation with the [REDACTED] (OCS).
4. On October 1, 2013, the Department closed Claimant's [REDACTED] MA case due to his [REDACTED].
5. On September 9, 2013, the Department sent Claimant its FAP decision.
6. On September 18, 2013, the Department sent Claimant its MA decision.
7. On November 4, 2013, Claimant filed a hearing request, protesting the Department's actions.

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), and Department of Human Services Reference Tables Manual (RFT).

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

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.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

The testimony in this case did not establish what the Claimant's [REDACTED] did or did not do that constituted his non-compliance with the OCS. The uncontested testimony was that the [REDACTED] of the Claimant's [REDACTED] was also receiving assistance. The SS was asked what else the Department needed to know about the [REDACTED] of the Claimant's [REDACTED] that the Department did not already know. Particularly as the [REDACTED] of the Claimant's [REDACTED] was also receiving public assistance. The SS stated that the Claimant's [REDACTED] had refused to pursue child support. The SS testified to this based on case notes from the SS who had determined that the Claimant's [REDACTED] was non-compliant with OCS. The SS who took the action was not present at the hearing.

The Claimant and her [REDACTED] testified that they did call the OCS and talk to the SS that found the Claimant's [REDACTED] to be in non-cooperation. The Claimant's [REDACTED] testified that he and his [REDACTED] have [REDACTED] and he tried to tell the SS that when they spoke on the telephone. However, the SS would not listen and repeatedly accused them of subsisting on assistance and wanting to "live off of the state." The Administrative Law Judge asked the SS at the hearing what else was expected of the Claimant's [REDACTED]. Essentially, what did he need to do to come into compliance? The SS asked the Claimant for the date of his [REDACTED] to the absent [REDACTED] and the Claimant's [REDACTED] gave that information without hesitation. The SS at the hearing testified that he would reverse the non-cooperation status retroactively to September 25, 2013.

Bridges Eligibility Manual (BEM) 255 (2011) pp. 1, 7, provides that cooperation with the OCS is a condition of eligibility for FIP. Failure to cooperate with the OCS without good cause results in disqualification for FIP. BEM 255, pp. 5-8, provides that it is the role of the Support Specialist (SS) to determine cooperation and non-cooperation and to attend pre-hearings and administrative hearings. Cooperation includes the following:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent.
- Appearing at the office of the prosecuting attorney when requested.

- Taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests).

There was no testimony from anyone with personal knowledge of conversation between the Claimant's [REDACTED] and the SS who took the action. As such the evidence does not indicate what the Claimant's [REDACTED] failed to do that constituted his non-compliance. As such, the Administrative Law Judge determines that the evidence does not establish that the Department was acting in accordance with its policy when taking action to close the Claimant's [REDACTED] MA case and sanction the Claimant's FAP case.

The Administrative Law Judge, based upon 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 took action to close the Claimant's husband's MA case and sanction the Claimant's FAP case.

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. Re-determine the Claimant's [REDACTED] eligibility for MA and the Claimant's group's eligibility for FAP back to October 1, 2013, and
2. When re-determining the eligibility no sanction for non-cooperation with OCS is to be counted, and
3. Issue the Claimant any supplement she may thereafter be due.

/s/ _____
Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/13/13

Date Mailed: 12/16/13

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

SEH/tb

cc:

