

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-14600  
Issue No.: 1021  
Case No.: [REDACTED]  
Hearing Date: August 12, 2013  
County: Wayne (98)

**ADMINISTRATIVE LAW JUDGE:** Eric Feldman

**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 three-way telephone hearing was held on August 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Specialist.

**ISSUE**

Did the Department properly deny Claimant's Family Independence Program (FIP) benefits effective July 16, 2012, ongoing?

**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 January 31, 2012, Claimant applied for FIP benefits. See Exhibit 3.
2. In January – March 2012, the Department denied Claimant's January 2012 FIP application due to her receiving unemployment benefits. See Exhibit 3.
3. On March 23, 2012, Claimant applied for FIP benefits.
4. In March or April 2012, the Department sent Claimant medical verification forms.
5. The Department never sent Claimant a Notice of Case Action regarding the denial of Claimant's March 2012 FIP application due to her failure to comply with the verification requirements. See Exhibit 3.
6. In May 2012, Claimant applied for FIP benefits.

7. On May 16, 2012, the Department sent Claimant a Verification Checklist (VCL), which was due back by May 29, 2012. Exhibit 3.
8. On May 30, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective June 1, 2012, ongoing, due to her failure to comply with the verification requirements. Exhibit 3.
9. In June 2012, Claimant applied for FIP benefits.
10. On July 13, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective July 16, 2012, ongoing, due to her failure to participate in the work participation program. Exhibit 3.
11. In October, 2012, Claimant applied for FIP benefits.
12. On an unspecified date, the Department requested that Claimant provide a statement confirming temporary critical event by November 13, 2012.
13. On November 14, 2012, the Department sent Claimant a Medical Determination Verification Checklist, which was due back by November 26, 2012. Exhibit 1.
14. On November 14, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective November 16, 2012, ongoing, due to her failure to comply with the verification requirements. Exhibit 1.
15. On November 28, 2012, Claimant filed a hearing request, protesting the Department's action. Exhibit 1.
16. On April 11, 2013, a Notice of Hearing was sent to Claimant scheduling her for an in-person hearing on April 25, 2013. Exhibit 2.
17. On April 25, 2013, Claimant requested a three-way telephone hearing. Exhibit 2.
18. On May 31, 2013, the Administrative Law Judge sent Claimant an Order Granting Adjournment for the April 25, 2013 hearing. Exhibit 2.
19. On June 11, 2013, a Notice of Hearing was sent to Claimant scheduling her for a three-way telephone hearing on June 26, 2013. Exhibit 2.
20. On June 26, 2013, Claimant was never contacted regarding the three-way telephone hearing.

21. On July 3, 2013, the Michigan Administrative Hearing System (MAHS) sent Claimant an Order of Dismissal for her failure to attend the June 26, 2013 hearing. Exhibit 2.
22. On July 17, 2013, Claimant submitted additional documentation. Exhibit 2.
23. On July 22, 2013, the MAHS sent Claimant an Order Vacating Order of Dismissal dated January 26, 2013, and stated Claimant would be rescheduled for a new hearing. Exhibit 2.
24. On July 23, 2013, a Notice of Hearing was sent to Claimant scheduling her for a three-way telephone hearing on August 12, 2013. Exhibit 2.
25. On July 26, 2013, Claimant submitted additional documentation. Exhibit 2.

### **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.

#### **Preliminary matters**

First, Claimant submitted two hearing requests on March 20, 2012 and June 20, 2012. A hearing was scheduled for both these hearing requests on October 3, 2012. Claimant failed to appear for that hearing on October 3, 2012. No Order Vacating Order of Dismissal for that hearing was issued. Claimant failed to appear for that hearing. Based on this information, this hearing decision will not address these hearing requests.

Second, Claimant testified that she wanted to dispute the FIP program, the Child Development and Care (CDC) program, and the Direct Support Services (DSS) program. A review of the March 20, 2012 and June 20, 2012 hearing request only indicated that Claimant was disputing her FIP benefits. There was no indication that Claimant was disputing the CDC program or the DSS program. Moreover, a review of Claimant's November 28, 2012 hearing request does not mention CDC or DSS issues. See Exhibit 1. Additionally, Claimant did not dispute her Food Assistance Program (FAP) benefits. Thus, this hearing decision will not address any CDC, DSS, or FAP program issues.

Third, on July 17, 2013, Claimant submitted additional documentation which addressed a hearing request on January 19, 2010, a State Emergency Relief (SER) hearing request, and a hearing conducted in March of 2009. This hearing decision will not

address any of the matters above due to lack of jurisdiction. See BAM 600 (July 2013), pp. 3-4.

Fourth, on July 26, 2013, Claimant submitted additional documentation which addressed an application on May 15, 2013 and FIP applications for January and March, 2012. First, this hearing decision cannot address any applications subsequent to Claimant's November 28, 2012 hearing request. Thus, Claimant will have to file another hearing request disputing anything subsequent to her November 28, 2012 hearing request. See BAM 600, pp. 3-4. Second, as stated previously, Claimant failed to attend her October 3, 2012 hearing. That hearing was addressing Claimant's hearing request dated March 20, 2012 and June 20, 2012. The October 3, 2012 hearing would have had jurisdiction over Claimant's January and March 2012 application. But due to her failing to appear, she has lost the right to contest those applications.

Additionally, this hearing has no jurisdiction over Claimant's May, 2012 FIP application as well. On May 30, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective June 1, 2012, ongoing, due to her failure to comply with the verification requirements. Exhibit 3. Although Claimant requested a hearing, Claimant did not appear at her October 3, 2012 hearing to dispute this application. Moreover, Claimant's November 28, 2012 request for hearing is more than 90 calendar days from the date of the written notice of case action (May 30, 2012) to request a hearing. Thus, this hearing decision will not address the May 2012 FIP application due to lack of jurisdiction. See BAM 600, p. 4.

In conclusion, this hearing decision will only address Claimant's FIP program benefits effective June 2012, ongoing.

### **FIP application**

In June 2012, Claimant applied for FIP benefits. On July 13, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective July 16, 2012, ongoing, due to her failure to participate in the work participation program. Exhibit 3.

The Department will automatically issue a DHS-4785, Work Participation Program Appointment Notice, from Bridges at application, member add, or when a client loses a deferral to schedule an appointment for each mandatory work participation program participant. BEM 229 (December 2011), p. 5. When assigned, clients must engage in and comply with all work participation program assignments while the FIP application is pending. BEM 229, p. 5. Work participation program engagement is a condition of FIP eligibility. BEM 229, p. 5. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. BEM 229, p. 5. The Department automatically denies FIP benefits for noncompliance while the application is pending. BEM 229, p. 5.

Based on the July 13, 2012 Notice of Case Action, it appears that Claimant failed to participate in the work participation program. However, the Department was not able to provide testimony regarding the reasons surrounding the failure to participate.

Additionally, the Department failed to provide evidence that Claimant was sent a DHS-4785.

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600, p. 27. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 29.

Based on the foregoing information and evidence, the Department did not satisfy its burden of showing that it acted in accordance with Department policy. The Department was unable to provide evidence or testimony on how Claimant failed to participate in work participation program. The Department will be ordered to reprocess the June 2012 FIP application.

It should also be noted that in October 2012, Claimant applied for FIP benefits. The Department testified that Claimant failed to provide a statement confirming temporary critical event by November 13, 2012. Due to the failure to provide this information, on November 14, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective November 16, 2012, ongoing, due to her failure to comply with the verification requirements. Exhibit 1. However, on the same date as the Notice of Case Action was sent, in November 14, 2012, the Department also sent Claimant a Medical Determination Verification Checklist, which was due back by November 26, 2012. Exhibit 1. Claimant testified that she responded to both the critical event request and the medical verification checklist.

The Department should have not provided Claimant with a verification request and also on that same date send her a Notice of Case Action indicating that her FIP application was denied. Due to the Department requesting verification, the Department should have deleted the negative action and waited upon Claimant's response to the verification. See BAM 220 (November 2012), pp. 1, 8-10. If Claimant failed to respond to the medical verification request, then the Department should have sent a Notice of Case Action.

Nevertheless, the Department will have to reprocess Claimant's FIP application for June 2012, ongoing.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department improperly denied Claimant's FIP application effective July 16, 2012, ongoing.

Accordingly, the Department's  AMP  FIP  FAP  MA  SDA  CDC decision is  AFFIRMED  **REVERSED** for the reasons stated on the record.

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

1. Initiate reregistration of the June 2012 FIP application;
2. Begin reprocessing the application/recalculating the FIP budget for July 16, 2012, ongoing, in accordance with Department policy;
3. Begin issuing supplements to Claimant for any FIP benefits she was eligible to receive but did not from July 16, 2012, ongoing; and
4. Begin notifying Claimant in writing of its FIP decision in accordance with Department policy.



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**Eric Feldman**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: August 27, 2013

Date Mailed: August 27, 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.

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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

EJF/las

cc:

