

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

IN THE MATTER OF:



Reg. No.: 2013-31039
Issue Nos.: 1002, 3008
Case No.:
Hearing Date: March 25, 2013
County: Wayne (82-31)

ADMINISTRATIVE LAW JUDGE: Eric J. 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 telephone hearing was held on March 25, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (Department) included .

ISSUES

1. Whether the Department properly failed to issue and closed Claimant's Food Assistance Program (FAP) benefits?
2. Whether the Department properly processed Claimant's Family Independence Program (FIP) application?

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 applied for benefits received benefits for:

- | | |
|--------------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. In October 2012, Claimant applied for FIP benefits.

3. On December 1, 2012, the Department placed Claimant's FAP case in "pending" status and failed to issue benefits from that date ongoing.
4. On February 14, 2013, the Department received Claimant's written request for hearing disputing the Department's actions concerning her FAP case and FIP application.

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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, 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, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 ACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98

and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

First, Claimant's Request for Hearing is contesting that the Department properly withheld her FAP benefits from December 1, 2012, ongoing. Second, Claimant is contesting that she applied for FIP benefits in October 2012 and stating that the Department failed to process her FIP application.

FAP Benefits

The Department presented as evidence an Eligibility Summary (Exhibit 2) which showed that Claimant's FAP benefits were pending, effective December 1, 2012. The Department testified that Claimant's FAP benefits were pending because Claimant failed to complete a Semi-Annual Contact Report, or a redetermination, or a group member failed to verify income reporting requirements.

The Department 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 (October 2012), p. 28. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600, p. 28. Both the local office and the client or authorized hearing representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 28. 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. 30.

The Department failed to meet its burden of proof when it attempted to explain in its case presentation why the Department withheld and closed Claimant's FAP benefits. The Department put forth that Claimant's FAP benefits were pending as of December 2012 because Claimant failed to submit a Semi-Annual Contact Report, or a redetermination, or a group member failed to verify income reporting requirements; however, this testimony by the Department shows that it was unaware specifically of what it actually requested from Claimant. Moreover, the Department was unable to provide any documentation showing a Semi-Annual Contact Report, or a redetermination, or income verification was sent to Claimant in December 2012. Rather, on February 25, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting verification of her fiancé's wages by March 7, 2013, which was more than ten days after Claimant's request for hearing. Therefore, Claimant's failure to

respond to the February 25, 2013, VCL would not explain the Department's failure to issue FAP benefits from December 2012 ongoing. Further, Claimant credibility testified that she provided her fiancé's documentation by the due date. The Department was unable to establish why it requested the VCL or prove why the FAP status changed from pending to closed.

Based on the foregoing evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it withheld and closed Claimant's FAP benefits effective December 1, 2012, ongoing.

FIP Benefits

In January 2013, Claimant testified that she went to her Department office and discovered that the Department failed to take any action on her FIP application which she submitted in October 2012.

Any person, regardless of age, or their authorized representative (AR) may apply for assistance. BAM 110 (October 2012), p. 4. [The Department] must register a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 16. For FIP cases, [the Department] must certify program approval or denial of the application within 45 days. BAM 115 (October 2012), p. 12. If the group is ineligible in the application process, [the Department] must certify the denial within the standard of promptness and also send a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 18.

Claimant credibly testified that she applied for FIP and CDC benefits in October 2012. Moreover, the Eligibility Summary (Exhibit 2) shows that CDC benefits are pending, which indicates that she did apply for CDC benefits at some point. The Department was unable to rebut or contradict Claimant's testimony that she applied for both benefits in October 2012. Furthermore, the Department did not even address the FIP issue when it read the hearing summary into the record.

Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to take any action on Claimant's FIP application.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department (i) improperly withheld and closed Claimant's FAP benefits and (ii) failed to take any action on Claimant's FIP application.

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
 did act properly did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated above and 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. Reinstate Claimant's FAP case as of December 1, 2012;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive from December 1, 2012, ongoing;
3. Register Claimant's FIP application, effective October 1, 2012;
4. Begin processing Claimant's FIP application in accordance with Department policy;
5. Issue supplements to Claimant for any FIP benefits she was eligible to receive it but did not from October 1, 2012, ongoing; and
6. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: March 27, 2013

Date Mailed: March 27, 2013

NOTICE: 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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:

- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

EJF/pf

cc:

