

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20133415
Issue No.: 1003
Case No.: [REDACTED]
Hearing Date: March 27, 2013
County: Wayne (#19)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted from Detroit, Michigan on Wednesday March 27, 2013. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Path Worker), [REDACTED] (Family Independence Manager) and [REDACTED] (Child Support Lead Specialist).

ISSUE

Whether the Department properly denied Claimant's August 10, 2012 application for cash assistance ("FIP) for failure to cooperate with child support?

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 10, 2012, the Claimant submitted an application for FIP benefits.
2. Effective July 25, 2012, the Office of Child Support ("OSC") had sanctioned the Claimant's case due to non-cooperation for failing to supply parental information for a child.
3. As a result of the sanction, the Department denied the Claimant's FIP application.
4. On September 24, 2012, the Department sent Notice of Case Action regarding

the denial of the FIP Application. (Exhibit 1)

5. On October 1, 2012, the Department received the Claimant's written hearing request disputing the action.

CONCLUSIONS OF LAW

The Department of Human Services (DHS) 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) is temporary cash assistance to support a family's movement to self sufficiency. It 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.

Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support ("OCS"), the Friend of the Court, and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255 (December 2011), p.1. Cooperation is a condition of eligibility. BEM 255, 1. The head of household and the parent of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255, p.10. Cooperation is required in all phases of the process to establish paternity and obtain support. It includes 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.

At application a client has 10 days to cooperate with the Office of Child Support. A verification checklist ("VCL") should be sent notifying the client to contact the OCS. The disqualification is imposed if the client fails to cooperate on or before the VCL due date when good cause for non-cooperating has not been granted and a claim is not pending. BEM 255, p.10 Any individual required to cooperate with child support that is a member of the FIP eligibility group who fails to cooperate without good cause will cause the entire group to be ineligible and the application denied. BEM 255, p. 10. Clients will be required to re-apply if conditions to end the disqualification are not met prior to the negative action date. The conditions to be met include the following: OCS recording a date of compliance into the system; support/paternity action is no longer needed, or a one month disqualification has been served. The Department is to ask a client at application, redetermination or reinstatement if they are willing to cooperate. A

disqualified member may indicate willingness to cooperate with OCS at any time. BEM 255, p. 12. A client that indicates a willingness to cooperate should be promptly referred to the support specialist at OCS. The support specialist determines cooperation for required support actions. The client's non-cooperation status will continue until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. BEM 255, p. 11.

In this case, the Claimant applied for FIP benefits on August 10, 2012. The Department notified her of the denial on September 24, 2012, due to failure to cooperate with child support. The OCS Support Specialist testified that a 1st contact letter was sent to Claimant on September 18, 2011, and a 2nd contact letter was sent on February 29, 2012 for Claimant to contact the office regarding information about the non-custodial parent of one of her children. Claimant did not contact the office, which resulted in the imposition of the non-compliance sanction on July 25, 2012. The OCS discovered that an Affidavit of Parentage was submitted at birth for the child in question. If the Claimant had contacted the office, the matter would have been resolved sooner because the OCS had access to the needed information. Claimant testified credibly that she did not receive the notices to contact OCS regarding the child in question. She has another child support worker for her other children, and has remained compliant and willing to provide any necessary information to OCS. Further, she was not told by the Department that there was an issue with her allegedly not cooperating with child support until after the FIP application was denied. Claimant has provided the OCS with the required information for the custodial parents of all her children, and is willing to cooperate with OCS as needed.

Policy dictates that at application a client should be sent a verification checklist informing the client to contact OCS, and allowed 10 days to cooperate with OCS before imposing the disqualification and denying the application. In addition, at application the Department is to ask the client if they are willing to cooperate with OCS, and if willingness is indicated promptly provide them with a number to reach the OCS support specialist. Evidence indicates that this was not done by the Department. According to the testimony of the OCS support specialist, had Claimant contacted the office sooner the matter would have been resolved. Based on the evidence, I find that while the Department had a valid reason to deny the FIP application, it did not process the application properly in regards to the notification of Claimant's non-cooperation status with child support. The matter could have been promptly resolved for the client, had the Department acted in accordance with policy as discussed above.

Accordingly, the Department did not establish it acted in accordance with policy when it denied the Claimant's FIP application on September 24, 2012.

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 not act in accordance with policy when it processed and subsequently denied Claimant's August 10, 2012 FIP application.

Accordingly, the Department's FIP determination is hereby, **REVERSED**.

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

1. The Department shall reinstate the Claimant's August 3, 2012 FIP application and process in accordance with department policy.
2. The Department shall supplement for lost FIP benefits (if any) that the Claimant was otherwise eligible and qualified to receive in accordance with department policy.

M. Howie

MICHELLE HOWIE
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/4/2013

Date Mailed: 4/5/2013

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

20133415/MH

Lansing, Michigan 48909-07322

MH/hw

cc:

