

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-34251
Issue No.: 1002
Case No.: [REDACTED]
Hearing Date: August 19, 2013
County: Macomb (20)

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 telephone hearing was held on August 19, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's Family Independence Program (FIP) application on April 30, 2012?

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 April 30, 2012, Claimant applied for Medical Assistance (MA) and Food Assistance Program (FAP) benefits. See Exhibit 1.
2. On May 21, 2012, the Department sent Claimant a Notice of Case Action notifying her that her MA application was denied effective April 1, 2012, ongoing. Exhibit 1.
3. On May 21, 2012, the Notice of Case Action also notified Claimant that her FAP application was denied effective April 30, 2012, ongoing. Exhibit 1.
4. On June 1, 2012, Claimant filed a hearing request, disputing the Department's action. Exhibit 1.
5. On July 2, 2012, Claimant completed a hearing request withdrawal regarding her June 1, 2012 request for hearing. See Exhibit 1.

6. On July 5, 2012, an Administrative Law Judge sent Claimant an Order Acknowledging Withdrawal. Exhibit 1.
7. On March 5, 2013, Claimant filed a hearing request, disputing an April 2012 FIP application. See Exhibit 1.
8. On July 10, 2013, a Notice of Hearing was sent to Claimant regarding her scheduled hearing on July 26, 2013. Exhibit 1.
9. On July 25, 2013, Claimant requested an adjournment of her July 26, 2013 hearing. Exhibit 1.
10. On July 26, 2013, an Administrative Law Judge granted Claimant's request for adjournment and her hearing would be rescheduled. Exhibit 1.
11. On July 31, 2013, a Notice of Hearing was sent to Claimant regarding her rescheduled hearing on August 19, 2013. Exhibit 1.

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 matter

As a preliminary matter, Claimant previously requested a hearing on June 1, 2012. See Exhibit 1. Moreover, Claimant submitted a hearing request withdrawal on July 2, 2012. See Exhibit 1. Then, on March 5, 2013, Claimant filed another hearing request, disputing an alleged April 2012 FIP application. See Exhibit 1. Claimant testified that she applied for FIP benefits on April 30, 2012. The Department testified that Claimant did not apply for FIP benefits on April 30, 2012. Moreover, the Department is arguing that Claimant's current request for hearing is untimely due to the March 5, 2013 hearing request being beyond the 90 calendar days from the date of notice of case action of May 21, 2012. See Hearing Summary, Exhibit 1.

A review of the Notice of Case Action does not indicate any FIP application. See Exhibit 1. Moreover, a review of Claimant's June 1, 2012 request for hearing does not indicate any FIP dispute. Additionally, Claimant is disputing the Department's failure to process her FIP application. The Michigan Administrative Hearing System (MAHS) may grant a hearing about a delay of any action beyond standards of promptness. See BAM 600 (July 2013), p. 3. The delay of any action beyond standards of promptness includes

the failure to process an application. Based on the foregoing information, Claimant presented credible testimony and evidence that this hearing has jurisdiction over Claimant's request for hearing. The previous withdrawal/hearing request did not indicate any dispute of FIP benefits. Moreover, the request for hearing was submitted based on a Notice of Case Action, which did not even address any FIP application. Claimant properly requested a hearing to dispute the Department's failure to process an application.

FIP application

Any person, regardless of age, or their authorized representative (AR) may apply for assistance. BAM 110 (December 2011), 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. 17. The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (April 2012), p. 12. For FIP cases, the Department must certify program approval or denial of the application within 45 days. BAM 115, p. 13. If the group is ineligible or refuses to cooperate in the application process, the Department certifies the denial within the standard of promptness by sending a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 18. If approved, the Department also sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 19.

Moreover, the local office must assist clients who ask for help in completing forms (including the DCH-0373-D) or gathering verifications. BAM 105 (March 2013), p. 10. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM 105, p. 10.

In this case, the Department testified that Claimant failed to request FIP benefits on an April 30, 2012 application. See Hearing Summary, Exhibit 1. The Department presented as evidence Claimant's April 30, 2012 application. See Exhibit 1. The application did show that Claimant marked on the first page that she would like to apply for cash assistance. See Exhibit 1. However, when reviewing the additional pages of the application, Claimant included signature additions. For example, under Claimant's name, question 16 indicated what kind of help the person needs. See Exhibit 1. Claimant marked cash assistance, but then circled it as well. See Exhibit 1. Moreover, Claimant then added signature additions, which appeared to state "otr" and "IGA," however, it was difficult to read. Nevertheless, based on the information, the Department testified that it conducted an interview with the Claimant to inquire about these signature additions. The Department testified that Claimant indicated that she wanted to apply for FAP and MA programs, however, was not requesting FIP benefits.

Claimant testified that she did apply for FIP benefits on April 30, 2012. During the hearing, Claimant kept stating that she applied twice on April 30, 2012. The first application Claimant testified was the application that the Department presented as evidence. However, Claimant testified that she applied again on April 30, 2012 for FIP benefits for her two grandchildren. After several testimonies, it appeared that Claimant was referring to the same application that the Department had presented. Claimant

acknowledged that the April 30, 2012 application contained her own request for benefits as well as her grandchildren's application. A review of the application does indicate that Claimant listed her grandchildren as well. See Exhibit 1.

Additionally, Claimant testified that the signature editions she added to the application were based on the benefit program name she thought that she was applying for. It appears that Claimant misunderstood the benefit program name and was possibly advised of a different benefit that her grandchildren were eligible. Nevertheless, the Department testified that Claimant indicated at the interview that she was not applying for the FIP program at the time of application.

Based on the foregoing information and evidence, the Department did not properly process Claimant's FIP application effective April 30, 2012. First, it appears based on Claimant's testimony that there should be particular sensitivity to Claimant's English. BAM 105, p. 10. Moreover, the Department must assist the Claimant when completing her application and/or clarifications when she conducted her interview regarding the FIP application. BAM 105, p. 10. Second, Claimant appropriately marked that she is applying for FIP benefits on April 30, 2012. See Exhibit 1. Claimant clearly marked on the application page that she is seeking FIP benefits. See Exhibit 1. It appears there was confusion, though, on Claimant's signature editions as discussed above. However, Claimant credibly testified that she was mistaken with the appropriate benefit names and she was seeking FIP benefits for the grandchildren. The evidence credibly demonstrated that Claimant was seeking FIP benefits based on the application submitted. Thus, the Department will have to process the FIP application effective April 30, 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 properly process Claimant's FIP application effective April 30, 2012.

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 registration of the April 30, 2012 FIP application;
2. Begin processing the application/calculating the FIP budget for April 30, 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 April 30, 2012; and

4. Begin notifying Claimant in writing of its FIP decision in accordance with Department policy.



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:

