

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201338240
Issue No.: 1002; 3004
Case No.: [REDACTED]
Hearing Date: June 18, 2013
County: Oakland 04

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 June 18, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], her witness [REDACTED] and her Authorized Hearing Representative (AHR), [REDACTED]. Participants on behalf of Department of Human Services (Department) included Eligibility Specialists (ES) [REDACTED].

ISSUE

Did the Department properly determine the Claimant's eligibility for Food Assistance Program (FAP) and Family Independence Program (FIP)?

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 December 21, 2011, the Department received the Claimant's DHS-1171, Assistance Application for Medical Assistance (MA), State Emergency Assistance (SER) and FIP and FAP.
2. There is no DHS-1605, Notice of Case Action in evidence indicating what the Department's eligibility determinations were regarding the Claimant's December 21, 2011, DHS-1171, assistance application.

3. Per the Department's hearing summary, the Claimant was approved for MA for one of her two [REDACTED] [REDACTED] charges. Due to several changes in case workers and Department error, eligibility for the other legally-guarded charge was not processed until April 2, 2013.
4. On April 5, 2013, the Department received the Claimant's written hearing request questioning why it was that the Claimant could not receive FIP and FAP assistance.

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 AACS, 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.

The hearing request in this case is granted as being timely because there is no evidence in the record to establish that the Claimant was ever sent a DHS-1605, Notice of Case Action informing the Claimant what the eligibility determination was. Though the hearing summary indicates that the Claimant's MA case is rife with error, the Claimant's AHR testified that the Claimant was not protesting any MA decision. The AHR testified that the Claimant was protesting the Department's refusal to issue her FIP and FAP benefits.

The AHR further testified that the Claimant has in the past been denied for FIP and FAP benefits because the Department has wrongly asserted that the Claimant is not in cooperation with the Office of Child Support (OCS). The AHR testified that the Claimant has been cooperative with OCS as well as with the prosecutor's office. The AHR requested that the Administrative Law Judge address this issue during the hearing. The Administrative Law Judge refused to do so because there is no evidence in the record to indicate the Claimant's application was even processed, much less denied. The Department had no documentation in evidence to indicate whether the application was processed, denied or approved. The ES at the hearing testified that, based on what she could see on the computer screen, the Claimant had been approved for FAP based on the December 21, 2011 application but that the FIP portion of the application had not been processed. This testimony was not found to be persuasive, as there is no documentation to support the testimony and as the case has been rife with Department error previously. The AHR objected to having the Claimant's eligibility re-determined back to the application date because she feared that the Claimant would again be denied for failing to cooperate with OCS and would then have to request another hearing. Yet, neither party offered a DHS-1605, Notice of Case Action indicating that the Claimant was denied for FIP and FAP for failing to cooperate with OCS.

Bridges Administrative Manual (BAM) 115 (2011) p. 1 provides that an application with the minimum information must be registered, and after it is registered, eligibility results must be certified for each program within the applicable standard of promptness. Because there is no persuasive evidence in the record that the Claimant's application for FIP or FAP has been registered or processed, the Administrative Law Judge concludes that the evidence is insufficient to establish that the Department was acting in accordance with its policy when failing to process the Claimant's DHS-1171, Assistance Application for FIP and FAP.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds that the Department did act properly. did not act properly when failing to determine eligibility for the Claimant's FIP and FAP applications.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED **REVERSED**.

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

1. Initiate action to redetermine the Claimant's eligibility for FIP and FAP back to December 21, 2011, and
2. Before denying the Claimant's eligibility for non-cooperation with OCS, allow the Claimant an opportunity to explain and present evidence of her cooperation with OCS, and
3. Issue the Claimant a DHS-1605, Notice of Case Action informing the Claimant of the Department's eligibility determination.

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

Date Signed: 6/19/13

Date Mailed: 6/20/13

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.

201338240/SEH

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

SEH/tb

cc:

