

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-52622
Issue No.: 1021; 2018; 3019; 6000
Case No.: ██████████
Hearing Date: July 11, 2013
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 July 11, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, ES.

ISSUE

Did the Department properly deny Claimant's application for Family Independence Program Benefits (FIP) and close Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) cases due to Claimant being incarcerated?

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 FIP benefits on or about February 28, 2013, and received MA and FAP benefits.

2. On May 24, 2013, the Department sent Claimant a Notice of Case Action, stating that Claimant's FIP application was denied, and that her FAP and MA cases would close, effective July 1, 2013 due to Claimant being incarcerated.
3. Claimant was incarcerated from May 21, 2013 through May 29, 2013.
4. On June 4, 2013, Claimant filed a hearing request, protesting the denial of her FIP application and the closure of her MA and FAP cases. Claimant also requested a hearing regarding Child Development and Care (CDC), but stated at the hearing that she no longer requested a hearing regarding CDC.

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 1999 AC, Rule 400.3101 through Rule 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 1999 AC, Rule 400.3001 through Rule 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 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 1999 AC, Rule 400.5001 through Rule 400.5015.

Per BAM 804, p.1, a person in a federal, state or local correctional facility for more than 30 days is not eligible to receive FIP, SDA or FAP benefits. In the present case, Claimant was not incarcerated for more than 30 days. The Department worker testified

that the only information she received was from Claimant's group member, but the Department worker did not state that she attempted to verify whether Claimant would be incarcerated for more than 30 days. Claimant testified credibly that she was incarcerated from May 21, 2013 through May 29, 2013. Therefore, since Claimant was not incarcerated for more than 30 days, the Department was not correct in denying Claimant's FIP application and closing Claimant's FAP case.

Per BEM 265, p. 2, an individual can remain eligible for MA during a period of incarceration. Therefore, the Department was not correct in closing Claimant's MA case.

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 improperly denied Claimant's FIP application and improperly closed Claimant's MA and FAP cases.

Claimant also testified at the hearing that she no longer requested a hearing regarding CDC.

DECISION AND ORDER

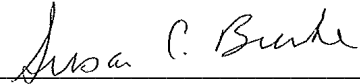
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act properly.

Accordingly, the Department's FIP, FAP and MA decisions are REVERSED for the reasons stated within the record.

THE DEPARTMENT SHALL BEGIN TO INITIATE THE FOLLOWING STEPS WITHIN TEN DAYS OF THE MAILING OF THIS ORDER:

1. Initiate reinstatement and reprocessing of Claimant's FIP application of on or about February 28, 2013.
2. Issue FIP supplements, in accordance with Department policy if Claimant is found to be eligible for FIP.
3. Initiate reinstatement of Claimant's MA and FAP cases, effective July 1, 2013.
4. Issue FAP supplements for Claimant, if Claimant is otherwise eligible for FAP, in accordance with Department policy.

IT IS FURTHER ORDERED that Claimant's request for hearing regarding CDC is DISMISSED per Claimant's request.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 15, 2013
Date Mailed: July 16, 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 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

SCB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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