

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

IN THE MATTER OF:



Reg. No.: 2014-30040
Issue No(s): 1008; 2000; 6011
Case No.: [REDACTED]
Hearing Date: March 27, 2014
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on March 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Family Independence Specialist. Also, the Office of Child Support ("OCS") was not present for the hearing.

ISSUES

Did the Department properly deny Claimant's Family Independence Program (FIP) application effective February 1, 2014, ongoing?

Did the Department properly deny Claimant's Child Development and Care (CDC) program application effective December 29, 2013, ongoing?

Whether the Department properly applied Medical Assistance (MA) coverage for Claimant's child effective February 2014?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of September 12, 2013, ongoing, Claimant was in non-cooperation with the OCS.
2. On January 10, 2014, Claimant applied for CDC and FIP benefits.

3. On January 15, 2014, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was denied effective December 29, 2013, ongoing. See Exhibit 1.
4. On January 15, 2014, the Department sent Claimant a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice instructing the Claimant to attend the PATH orientation on January 28, 2014. Exhibit 1.
5. Claimant failed to complete her scheduled PATH program orientation.
6. Effective February 2014, Claimant's child received full MA coverage. See Exhibit 1.
7. On February 11, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective February 1, 2014, ongoing, due to her failure to attend the PATH program orientation. Exhibit 1.
8. On February 27, 2014, Claimant filed a hearing request, protesting her FIP/CDC denial and her child's MA case closure. See Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

FIP application

Regarding FIP applications, completion of the 21 day PATH application eligibility period (AEP) part of orientation which is an eligibility requirement for approval of the FIP application. BEM 229 (July 2013), p. 1. PATH participants must complete all of the following in order for their FIP application to be approved: begin the AEP by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice; complete PATH AEP requirements; and continue to participate in PATH after completion of the 21 day AEP. BEM 229, p. 1. The Department denies the FIP application if an applicant does not complete all of the above three components of the AEP. BEM 229, p. 1.

On January 10, 2014, Claimant applied for CDC and FIP benefits. On January 15, 2014, the Department sent Claimant a PATH Appointment Notice instructing the Claimant to attend the PATH orientation on January 28, 2014. Exhibit 1. Upon receipt of the notice, Claimant and the Department spoke with one another. Claimant testified that she notified the Department that she would be unable to complete the PATH requirements until she was approved for CDC benefits. The Department testified that it notified the Claimant that it has forty-five days to process her CDC application.

Additionally, Claimant testified that she attended the PATH orientation the morning of January 28, 2014; however, she was unable to complete the orientation due to the child care issues. The Department testified that Claimant failed to complete her PATH program orientation. Thus, on February 11, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective February 1, 2014, ongoing, due to her failure to attend the PATH program orientation. Exhibit 1.

At application, the registration support staff must provide clients with a DHS-619, Jobs and Self-Sufficiency Survey. BEM 229, p. 1. The Department must do all of the following:

- . . .
- Temporarily defer an applicant who has identified barriers that require further assessment or verification before a decision about a lengthier deferral is made, such as clients with serious medical problems or disabilities or clients caring for a spouse or child with disabilities.

Note: Clients should not be referred to orientation and AEP until it is certain that barriers to participation such as lack of child care or transportation have been removed, possible reasons for deferral have been assessed and considered, and disabilities have been accommodated.

BEM 229, pp. 1-2.

Based on the foregoing information and evidence, the Department improperly denied Claimant's FIP application effective February 1, 2014, ongoing. The Claimant should have not been referred to the PATH program until the barrier of child care was resolved. It is evident that the Department was aware that Claimant was seeking CDC benefits on the application dated January 10, 2014. However, five days after Claimant's application, the Department sent Claimant a PATH Appointment Notice. See Exhibit 1. BEM 229 states that clients should not be referred to orientation and AEP until it is certain that barriers to participation such as lack of child care have been removed. BEM 229, p. 2. Additionally, both parties acknowledged that Claimant notified her DHS caseworker of her CDC issue upon receipt of the appointment notice. The evidence presented that the Claimant should have not been referred to the PATH program until her barrier of child care had been removed.

CDC application

As of September 12, 2013, Claimant was in non-cooperation with the OCS. On January 10, 2014, Claimant applied for CDC and FIP benefits. On January 15, 2014, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was denied effective December 29, 2013, ongoing. See Exhibit 1. Specifically, the Notice of Case Action denied Claimant's CDC application due to her group not eligible because the parent/substitute parent does not have a need for child day care services due to employment, education or family preservation reasons. See Exhibit 1. However, the Department testified that the denial for CDC benefits was regarding a non-cooperation with OCS. Nowhere in the Notice of Case Action did it mention such a denial reason. The Department, though, provided a CDC notice reasons document, which indicated the denial reason for refusal to cooperation with child support. See Exhibit 1.

Additionally, the Department presented a Verification Checklist (VCL) dated December 6, 2013, which instructed the Claimant to contact the OCS and comply with it by December 16, 2013. See Exhibit 1. This VCL was sent prior to her CDC application dated January 10, 2014. It appears this VCL notice to comply with the OCS was in regards to a previous application. The Department testified that it did not send another VCL subsequent to her CDC application dated January 10, 2014.

At the hearing, Claimant testified that she contact the OCS in January 2014. Claimant testified that she spoke with the OCS and stated that she was told she would be placed in cooperation. However, the Department's system still indicated that Claimant was in non-cooperation.

The custodial parent or alternative caretaker of children must com-ply 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 (January 2014), p. 1. Failure to cooperate without good cause results in disqualification. BEM 255, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255, p. 2.

For CDC applications, the client has 10 days to cooperate with the OCS. BEM 255, p. 11. The Department informs the client to contact the OCS in the verification check list (VCL). BEM 255, p. 11. The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true: there is a begin date of non-cooperation in the absent parent logical unit of work; there is not a subsequent comply date; support/paternity action is still a factor in the child's eligibility; and good cause has not been granted nor is a claim pending. BEM 255, pp. 11-12.

Based on the foregoing information and evidence, the Department improperly denied Claimant's CDC application effective December 29, 2013, ongoing. At the hearing, the Department presented evidence that a VCL was sent to the Claimant notifying her to comply with the OCS, however, this was in regards to a previous application. See Exhibit 1. The Department failed to send Claimant a new VCL informing her to contact the OCS subsequent to her application dated January 10, 2014. Moreover, Claimant testified that she contacted the OCS in January 2014 and stated she would be placed in compliance. An OCS caseworker was not present at the hearing to rebut Claimant's testimony that she was in compliance. Because the Department failed to send Claimant a VCL subsequent to her CDC application, the Department will reregister Claimant's CDC application dated January 10, 2014, in accordance with Department policy. BEM 255, pp. 11-12.

MA benefits

On February 27, 2014, Claimant filed a hearing request, protesting that her child's MA benefits had closed. See Exhibit 1. At the hearing, Claimant testified that her child received hospitalization services in February 2014. Claimant testified that she has not received a medical bill for the services rendered in February 2014. Claimant testified, though, that she was contacted regarding her child's medical bill and that her son did not have active MA coverage for that time. The Department presented as evidence Claimant's child MA eligibility. The MA eligibility indicated that the Claimant's son had full MA coverage for February 2014. See Exhibit 1. This information is contrary to the Claimant's testimony.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

Moreover, the Michigan Administrative Hearing System (MAHS) may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.

BAM 600 (March 2013), pp. 4-5. Additionally, MAHS may also grant a hearing regarding MA only issues as well. See BAM 600, p. 5.

Based on the above information, this hearing lacks the jurisdiction to address Claimant's MA hearing request. Claimant did not have a denial, reduction, suspension, restriction, or delay of any action beyond standards of promptness regarding her child's MA benefits. Claimant alleges that her son lacked MA coverage for February 2014 and has not presented a hospitalization bill. However, the evidence indicated that her son had full MA coverage for February 2014. See Exhibit 1. Nevertheless, Claimant's MA hearing request is not ripe for this hearing decision because there has not been a denial, reduction, suspension, restriction, or delay of any action beyond standards of promptness regarding her child's MA benefits. Therefore, Claimant's MA hearing request is DISMISSED due to lack of jurisdiction. See BAM 600, pp. 4-5.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when (i) it improperly denied Claimant's FIP application effective February 1, 2014, ongoing; and (ii) it improperly denied Claimant's CDC application effective December 29, 2013, ongoing.


Accordingly, the Department's FIP and CDC decisions are REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate reregistration of the CDC and FIP application dated January 10, 2014;
2. Begin reprocessing the application/recalculating the CDC and FIP budget from the date of application and in accordance with Department policy;
3. Begin issuing supplements to Claimant for any CDC and FIP benefits she was eligible to receive in accordance with Department policy; and

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

IT IS ALSO ORDERED that Claimant's MA hearing request (dated February 27, 2014) is **DISMISSED** due to lack of jurisdiction.



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

Date Signed: April 1, 2014

Date Mailed: April 1, 2014

NOTICE OF APPEAL: 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.

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).

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.

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/tlf

cc:

[REDACTED]