

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-16710
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: July 10, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on July 10, 2014, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED] Specialist.

ISSUE

The issue is whether DHS properly terminated Family Independence Program (FIP) eligibility.

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 was an ongoing FIP benefit recipient.
2. Claimant was an ongoing employee for a private employer.
3. On [REDACTED] DHS requested verification of Claimant's employment information.
4. The due date for Claimant to return the employer information was [REDACTED]

5. On an unspecified date before [REDACTED], DHS verified Claimant's employment information via a telephone call with Claimant's employer.
6. On [REDACTED], DHS mailed a Notice of Case Action (Exhibits 6-7) informing Claimant of a termination of FIP benefits, effective [REDACTED], for the reason that Claimant failed to verify wage information.
7. On [REDACTED] Claimant and her AHR requested a hearing to dispute the termination of FIP benefits.
8. On [REDACTED] Claimant signed a Hearing Request Withdrawal (HRW).
9. On an unspecified date, Claimant reapplied for FIP benefits.
10. On [REDACTED] DHS denied Claimant's FIP application.
11. On [REDACTED], Claimant requested a hearing to dispute the FIP application denial.

CONCLUSIONS OF LAW

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

Claimant stated that she requested a hearing to dispute a FIP benefit termination. DHS contended that Claimant is not entitled to a hearing concerning a FIP benefit termination because Claimant withdrew her hearing request.

DHS presented a copy of Claimant's signed Hearing Request Withdrawal (Exhibit 2). The stated reason for withdrawal was that DHS needed "more info from me and I have all the paperwork they need". Claimant's statement suggested that DHS convinced her to withdraw her hearing based on a promise to reinstate FIP eligibility in exchange for submitting paperwork. It is presumed that Claimant's hearing request dated [REDACTED] was never forwarded to MAHS because of Claimant's signed withdrawal.

DHS provides policy on when a signed hearing withdrawal ceases the hearing process. Once DHS receives a request for hearing, a hearing will be scheduled unless the authorized hearing representative or, if none, the client, signs a written withdrawal. BAM 600 (7/2013), p. 17.

Claimant's Request for Hearing noted that she had an AHR. Claimant's AHR did not sign the HRW. The failure by DHS to obtain a signed hearing withdrawal from Claimant's AHR is fatal to the validity of the hearing withdrawal. It is found that the HRW dated [REDACTED] was invalid and that DHS should have forwarded Claimant's Request for Hearing to MAHS. Claimant may proceed with her dispute concerning a FIP benefit termination.

DHS presented a Notice of Case Action dated [REDACTED] (Exhibits 6-7). The only listed basis for termination was Claimant's failure to verify employment income. DHS testimony suggested that Claimant's FIP eligibility was also terminated due to a failure to provide medical information.

A Notice of Case Action must specify the reason for the action. BAM 220 (7/2013), p. 2. If a reason is not listed on a Notice of Case Action, it is not a valid basis for the action. Accordingly, Claimant's alleged failure to submit medical information will not be recognized as a basis to support terminating Claimant's FIP eligibility. Claimant's alleged failure to verify employment income will be considered as a basis for terminating FIP eligibility.

It was not disputed that DHS requested Claimant's employment information on [REDACTED]. Claimant conceded that she did not timely return a Verification of Employment to DHS. Claimant testified that she had difficulty returning the form and advised DHS of her difficulties. Claimant also testified that DHS verified the information after speaking to Claimant's employer. Claimant's testimony was credible and unrefuted.

Based on the presented evidence, it is found that DHS verified Claimant's employment information. Accordingly, it is found that DHS improperly terminated Claimant's FIP eligibility.

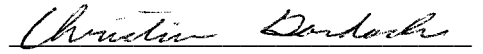
It should be noted that, during the hearing, Claimant conceded that she received income from her auto insurance company. The evidence was suggestive that the income was previously unreported. Claimant's memory was hazy but she vaguely recalled receiving income for at least the month of [REDACTED]. Claimant also stated that half of her income was given to a person allegedly providing household care to her. There is insufficient evidence to determine how much income that Claimant received, however, DHS may withhold any benefit supplement until a request for verification of insurance income is made.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP eligibility. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's FIP eligibility, effective [REDACTED], subject to the finding that Claimant timely verified her employment information; and

(2) initiate a supplement for any benefits improperly not issued.
The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/22/2014

Date Mailed: 7/22/2014

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

CG/hw

cc:

