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

IN THE MATTER OF:

Reg. No.: 14-012957 Issue Nos.: 2001, 3002

Case No.:

Hearing Date: October 30, 2014
County: Pathways to Potential

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 October 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included

<u>ISSUE</u>

Did the Department properly deny Claimant's Medical Assistance (MA) application and reduce Claimant's Food Assistance Program (FAP) benefits?

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 August 9, 2013, the Department sent Claimant a notice of case action informing her that her FAP benefits had been decreased due to her failure to cooperate with the OCS.
- 2. On August 18, 2014, the Department sent Claimant a Health Care Coverage Determination Notice informing her that she and her children were not eligible for MA benefits.
- 3. On September 12, 2014, Claimant requested a hearing to protest the Department's reduction of her FAP benefits and the denial of her MA application.

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

FAP

Claimant's request for hearing includes the Department's actions taken regarding her FAP benefits.

Documentation provided at the hearing shows that Claimant was notified of a reduction in her FAP benefits on August 9, 2013.

Department policy allows 90 days after a negative action for a claimant to request a hearing based on that negative action.

In the instant case, the Department's negative action took place on September 1, 2013, and Claimant's hearing request was filed on September 12, 2014. This is well beyond the 90-day limit placed on a claimant requesting a hearing. BAM 600 (July 2014).

Therefore, the request for a hearing on the decrease in Claimant's FAP benefits is DISMISSED.

Claimant may reapply for FAP benefits.

MA

MA.

Claimant applied for MA benefits for herself and her children. The Department denied Claimant's application for MA benefits due to her noncooperation status with the OCS.

At the hearing, Claimant testified under oath that she had provided all of the information that she possessed concerning the father of the children in question and even provided a blood test in the pursuit of locating the father of her children.

When asked whether she had any further information concerning the father of her children, Claimant replied in the negative.

The Department and OCS testified that they had no knowledge that Claimant was withholding information concerning the father of her children.

In *Black v Dept of Social Services*, 195 Mich App 27 (1992), the Court of Appeals addressed the issue of burden of proof in a non-cooperation finding. Specifically, the court in *Black* ruled that to support a finding of non-cooperation, the agency has the burden of proof to establish that the mother (1) failed to provide the requested verification and that (2) the mother knew the requested information. The *Black* court also emphasized the fact that the mother testified under oath that she had no further information and the agency failed to offer any evidence that the mother knew more than she was disclosing. *Black* at 32-34.

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

acted in accordance with Department policy when it

did not act in accordance with Department policy when it continued to find Claimant in noncooperation with the OCS after Claimant told the Department that she had no further information.

failed to satisfy its burden of showing that it acted in accordance with Department policy when it

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

REVERSED.

DISMISSED IN PART with respect to FAP and REVERSED IN PART with respect to

- 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. Reregister and reprocess Claimant's MA application as of the application date and supplement for any missed benefits if applicable.

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

Date Signed: 11/10/2014

Date Mailed: 11/10/2014

MJB / pf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

