

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

IN THE MATTER OF:

████████████████████
██
████████████████████

Reg. No.: 14-005493
Issue No(s): 1008, 3008, 6001
Case No.: ██████████
Hearing Date: July 30, 2014
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 July 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████ ██████, Family Independence Manager and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) case because she and another group member failed to participate in employment related activities?

Did the Department properly deny Claimant's application for Child Development and Care (CDC) benefits for her oldest child?

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 is an ongoing FIP and FAP recipient.
2. Claimant applied for CDC benefits in April 2014.
3. Claimant's application for CDC benefits was approved for her two youngest children but denied for her oldest child.

4. Claimant did not use any CDC benefits as she did not have anyone to care for her oldest child.
5. On June 3, 2014, the Department sent Claimant a Notice of Noncompliance notifying her that her FIP and FAP benefits would end effective July 1, 2014 as a result of her and another group member's lack of participation in the PATH program.
6. The Department further investigated the allegation of non-compliance and determined that Claimant and the other group member were both compliant with the PATH program.
7. On June 12, 2014, the Department reinstated Claimant's FIP and FAP benefits and Claimant did not receive any interruption in either FIP or FAP benefits.
8. On June 23, 2014, Claimant filed a Request for Hearing disputing the Department's actions.

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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

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 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.

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause. BEM 223A (7/2013), p. 1.

A Work Eligible Individual (WEI) and non-WEIs who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. *Id.*

In this case, the Department initially stated that Claimant and another group member were in non-compliance with the PATH program. As a result, the Department sent Claimant a Notice of Case Action notifying her that her FIP case would close effective July 1, 2014 and that also effective July 1, 2014, both she and the other non-compliant group member would be removed from the FAP group. However, upon further review, the Department determined that both Claimant and the other group member were in compliance with the PATH program. The Department subsequently reinstated Claimant's FIP benefits and as such Claimant did not have any interruption in FIP benefits. The Department testified that it also re-added both Claimant and the other group member to the FAP case effective July 1, 2014. However, Claimant was unsure if the other group member had been added. The Department failed to provide any proof that the other group member had been added. Accordingly, it is found that the Department established that it removed the other group member but failed to establish that it had re-added the other group member.

Additionally, the CDC program may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is **unavailable** to provide the child care because of employment, participation in an approved activity and/or because of a condition for which treatment is being received **and** care is provided by an eligible provider. BEM (April 2014), p. 1. Claimant testified that she applied for CDC benefits in April 2014. Claimant stated that her two younger children were approved but her oldest child had been denied. Claimant was unable to recall the reason for the denial of one child. The Department had no recollection of Claimant applying for CDC benefits. Accordingly, it is found that the Department failed to establish that it properly denied Claimant's oldest child for CDC benefits.

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 policy when it failed to re-add the group member to Claimant's FAP benefits that had been removed in error. Further it is found that the Department

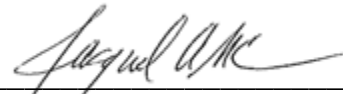
did not act in accordance with policy when it denied Claimant's oldest child for CDC benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **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. Recalculate Claimant's eligibility for FAP benefits effective June 1, 2014, ongoing;
2. Issue any supplements Claimant was eligible to receive but did not for FAP benefits effective June 1, 2014;
3. Reregister and reprocess Claimant's April 2014 application for CDC benefits; and
4. Notify Claimant in writing of its decision.



JACQUELYN A. MCCLINTON
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 6, 2014

Date Mailed: August 6, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

JAM/cl

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