

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-005528
Issue No.: 1001;2001;3001;5001;6001
Case No.: [REDACTED]
Hearing Date: July 28, 2014
County: Wayne-District 15

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 28, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly process Claimant's Food Assistance Program (FAP), Family Independence Program (FIP), Medical Assistance (MA), State Emergency Relief (SER), and Child Development and Care (CDC) 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. Claimant was an ongoing recipient of FAP and CDC benefits.
2. On May 27, 2014, Claimant submitted an application for FIP and MA benefits. (Exhibit 4)
3. On May 27, 2014, Claimant submitted an application for SER assistance with water, electricity and heat services. (Exhibit 4)
4. On May 27, 2014, the Department sent Claimant a Health Care Coverage Determination Notice informing her that MA for was denied on the basis that her granddaughter was eligible for MA in another case. (Exhibit 3)

5. On May 28, 2014, the Department sent Claimant a Notice of Case Action informing her that effective June 15, 2014, her CDC case would be closed on the basis that she or a group member had not provided proof of citizenship or immigration status. (Exhibit 2)
6. On May 28, 2014, the Department sent Claimant a SER Decision Notice informing her that her request for SER assistance with water, electricity and heat services was denied on the basis that she failed to cooperate with child support requirements. (Exhibit A)
7. On June 10, 2014, the Department sent Claimant a Notice of Potential FAP Closure informing her that because the Department had not received a completed semi-annual, her FAP case would be closed effective June 30, 2014. (Exhibit 1)
8. On an unverified date, Claimant's application for FIP benefits was denied on the basis that she had exceeded the federal time limit on receipt of FIP benefits. (Exhibit 5)
9. On June 18, 2014, Claimant submitted a hearing request disputing the Department's actions with respect to her FAP, FIP, MA, SER and CDC benefits.

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).

SER

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049.

Additionally, the custodial parents of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom she receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (January 2014), pp. 1. A client's cooperation with paternity and obtaining child support is a condition of FAP eligibility. BEM 255, pp. 1, 9-11. Cooperation is required in all phases of the process to establish paternity and obtain support and includes providing all known information about the absent parent. BEM 255, p 8. Any individual required to cooperate who fails to cooperate without good cause may result in group ineligibility or member disqualification for FAP. BEM 255, pp. 9-11. Department policy found in ERM 203 provides that groups that are non-cooperative with the Office of Child Support are also ineligible for SER. ERM 203 (June 2013), p. 2.

In this case, Claimant's SER application for assistance with water, electricity and heat services was denied on the basis that she failed to cooperate with child support requirements. (Exhibit A). The Department testified that this was done in error and that Claimant is in cooperation with child support requirements. The Department stated that a help desk ticket with ticket number [REDACTED] has been issued, but as of the hearing date, the removal of the child support sanction has not been resolved.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Claimant was ineligible for SER based on a noncooperation with child support requirements.

FIP

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.

In this case, Claimant submitted an application for FIP benefits on behalf of her granddaughter, of whom she became legal guardian. Claimant indicated that she was applying for FIP benefits as an ineligible grantee. At the hearing, the Department initially testified that Claimant's FIP application was denied on the basis that Claimant was in noncooperation with child support requirements, however, as discussed above, that was improper.

At the hearing, the Department presented a Cash-Notice Reasons summary showing that Claimant's FIP application was actually denied on the basis that she had exceeded the federal time limit for receipt of FIP benefits. (Exhibit 5). The Department acknowledged that the denial was improper, as Claimant is considered an ineligible grantee and as such, the federal time limit does not apply to her. BEM 234 (July 2013), p. 6.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Claimant was ineligible for FIP based on exceeding the federal time limit for receipt of FIP benefits.

FAP

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.

Additionally, the Department must periodically redetermine an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (October 2013), p 1. Redetermination, semi-annual and mid-certification forms are often used to re-determine eligibility of active programs. BAM 210, p.1. The Department will send a DHS 1046, Semi-Annual Contact Report, the beginning of the fifth month for cases assigned a 12 month benefits period. BAM 210, p.8. A report is considered complete when all of the sections are answered completely and all of the requested verifications are returned. BAM 210, p.9.

FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p 2. If the DHS-1046 is not logged in by the 10th day of the sixth month, Bridges will generate a DHS-1046A, Potential Food Assistance (FAP) Closure, to the client. This reminder notice explains that the client must return the DHS-1046 and all required verifications by the last day of the month, or the case will close. If the client fails to return a complete DHS-1046 by the last day of the sixth month, Bridges will automatically close the case, without sending a Notice of Case Action. BAM 210, p.11.

In this case, the Department initially testified that Claimant's FAP benefits were terminated on the basis that she failed to cooperate with child support requirements, which as discussed above, was determined to have been improper. At the hearing however, the Department presented a Notice of Potential FAP Closure that was sent to Claimant on June 10, 2014, informing her that effective June 30, 2014, her FAP case would be closed on the basis that she failed to return the semi-annual contact form. (Exhibit 1). There was no evidence presented by the Department to establish that Claimant was sent a semi-annual contact form that she was required to complete and return or that she failed to return the semi-annual contact form. Therefore, any case closure on that basis is also improper.

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 failed to satisfy its burden of establishing that it acted in accordance with Department policy when it closed Claimant's FAP case on the basis that she did not return a semi-annual contact form.

MA

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.

In this case, Claimant submitted an application for MA benefits on May 27, 2014. (Exhibit4). At the hearing, the Department presented a Health Care Coverage Determination Notice informing her that MA was denied on the basis that her granddaughter was eligible for MA in another case. (Exhibit 3). There was no evidence presented to establish that Claimant's granddaughter had active MA on another case. The Department acknowledged that this denial was improper and that Claimant's granddaughter should have been approved for MA under Claimant's case, as she is the legal guardian.

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 failed to satisfy its burden of establishing that it acted in accordance with Department policy when it denied Claimant's MA application on the basis that her granddaughter had active MA coverage on another case.

CDC

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.

At the hearing, the Department initially testified that Claimant's CDC case was closed on the basis that she failed to cooperate with child support requirements. Later in the hearing, the Department presented a Notice of Case Action which was sent to Claimant on May 28, 2014, informing her that effective June 15, 2014, her CDC case would be closed on the basis that she or a group member had not provided proof of citizenship or immigration status. (Exhibit 2). The Department acknowledged that Claimant was in fact in cooperation with child support requirements and that the case closure based on the lack of citizenship or immigration status was also improper.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's CDC case on the basis that she did not provide proof of citizenship or immigration status.

DECISION AND ORDER

Accordingly, the Department's SER, FIP, FAP, MA 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. Remove any child support sanctions that were placed on Claimant's cases and resolve the help desk ticket issued;
2. Register and process Claimant's application for SER to determine her eligibility for SER as of the application date and issue a new SER Decision Notice;
3. Register and process Claimant's FIP application taking into consideration her status as an ineligible grantee;
4. Issue supplements to Claimant for any FIP benefits that she was entitled to receive but did not from the application date, ongoing;
5. Register and process Claimant's MA application to determine Claimant and her granddaughter's eligibility for MA under the most beneficial category;
6. Issue supplements to Claimant for any MA benefits that she and her granddaughter were entitled to receive but did not from the application date, ongoing;
7. Reinstate Claimant's FAP case effective June 30, 2014;
8. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from June 30, 2014, ongoing;
9. Reinstate Claimant's CDC case effective June 15, 2014, ongoing;
10. Issue supplements to Claimant and her CDC provider for any CDC benefits that she was entitled to receive but did not from June 15, 2014, ongoing; and
11. Notify Claimant in writing of all decisions.



Zainab Baydoun

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

Date Signed: **8/4/2014**

Date Mailed: **8/14/2014**

ZB / tlf

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

CC:

