

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

IN THE MATTER OF:

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Reg. No.: 14-012869
Issue No.: 1008; 2000; 3011; 6002
Case No.: ██████████
Hearing Date: October 30, 2014
County: Wayne-District 55

ADMINISTRATIVE LAW JUDGE: Alice Elkin

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 and ██████████, Claimant's mother. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Specialist/JET Case Worker, and ██████████, Lead Specialist with the Office of Child Support (OCS).

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case based on noncompliance with employment-related activities?

Did the Department properly remove Claimant as a member of her Food Assistance Program (FAP) group based on disqualification?

Did the Department properly deny Claimant's application for 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 FIP and FAP benefits.
2. On July 3, 2014, Claimant applied for CDC benefits.

3. On July 8, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting that she provide a DHS-4025, Child Care Provider Verification, and notifying her that her chosen provider's identification number had expired and had to be reinstated.
4. Claimant did not respond to the VCL by the July 18, 2014 due date.
5. Claimant was sent a PATH Appointment Notice requiring her to attend a PATH orientation on July 14, 2014.
6. Claimant did not attend the PATH orientation.
7. On July 29, 2014, the Department sent Claimant a Notice of Noncompliance notifying her that she had failed to comply with her FIP employment-related activities and scheduling a triage on August 4, 2014.
8. On July 29, 2014, the Department sent Claimant a Notice of Case Action informing her that (i) her CDC application was denied because she had failed to provide a requested provider assignment and (ii) that her FIP case would close effective September 1, 2014 because she had failed to comply with employment related activities.
9. Claimant did not attend the August 4, 2014 triage.
10. The Department held the triage and found no good cause for the noncompliance.
11. On August 5, 2014, the Department sent Claimant a Notice of Case Action reducing her FAP benefits because she had failed to cooperate with child support requirements.
12. On September 18, 2014, Claimant filed a request for hearing disputing the Department's actions concerning FIP, FAP, CDC and Medical Assistance (MA).

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).

Claimant requested a hearing to dispute the Department's actions concerning her FIP case closure, her FAP benefit amount, her CDC application denials, and her Medical Assistance (MA) cases. At the hearing, Claimant testified that the MA issue had been resolved and she did not wish to pursue a hearing concerning MA. Therefore,

Claimant's hearing request concerning her MA issue is dismissed. The hearing proceeded to address Claimant's FIP, FAP and CDC issues.

FIP Case Closure

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.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2013), p. 1; BEM 233A (July 2013), p. 1. A client is in noncompliance with her FIP obligations if she fails or refuses, without good cause, to appear and participate with the work participation program or other employment service provider or to participate in any required activities. BEM 233A, p. 2. The Department alleged that Claimant was in noncompliance with her FIP obligations because she failed to attend the July 14, 2014 PATH orientation after the birth of her daughter. Claimant admitted that she did not attend the PATH orientation.

Before terminating a client from the work participation program and closing her FIP case due to noncompliance, the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. In this case, a September 4, 2014 triage was scheduled, but Claimant did not attend the triage. Even if the client does not attend, the Department must hold the triage and consider the noncompliance and whether the client has good cause for the noncompliance. BEM 233A, p. 8. Good cause may be verified by information already on file with the Department or PATH. BEM 233A, p. 8.

The Department credibly testified that it held the triage and concluded that Claimant had no good cause for her noncompliance and sanctioned her FIP case. Although the Department denied receiving any call from Claimant prior to the orientation date, Claimant credibly testified at the hearing that she tried to contact her worker the Friday before the July 14, 2014 PATH orientation to let her know that she was scheduled to work on July 14, 2014, and faxed her work schedule to her worker. Claimant's testimony was consistent with her hearing request. In light of the fact that Claimant presented a good cause explanation for her failure to attend the July 14, 2014 PATH appointment and evidence of her explanation should have been in the Department's files, the Department did not act in accordance with Department policy when it closed her FIP case for a six-month minimum.

FAP Benefit Reduction

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.

In an August 5, 2014 Notice of Case Action, the Department notified Claimant that her monthly FAP benefits were decreasing to \$347 for a group size of two (her two children) because she was removed as a disqualified member of her FAP group due to a child support noncooperation sanction. Although the Department also testified at the hearing that Claimant's disqualification was also appropriate because of the FIP employment-related sanction, because Claimant has two minor children under the age of 6 for whom she cares and, as discussed above, she established good cause for her FIP employment-related noncompliance, to the extent the Department removed Claimant from her FAP group due to the FIP employment-related sanction, it did not act in accordance with Department policy. BEM 230B (October 2013), p. 4; BEM 233B (July 2013), pp. 2-3. Therefore, the only issue properly presented is whether Claimant was disqualified from her FAP group because she failed to comply with her child support reporting obligations concerning her infant daughter A.

As a condition of FAP eligibility, the custodial parent of a minor child must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom the parent receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (October 2014), p. 1.

OCS participated in the hearing and presented evidence that it sent Claimant two contact letters requesting information concerning the father of her daughter A and a Noncompliance Notice on August 2, 2014, informing her that her State benefits could be affected because she had failed to provide requested paternity information. Although Claimant denied receiving any letter from OCS other than the Noncompliance Notice, OCS established that the other letters were sent to Claimant at her address of record and Claimant did not rebut the presumption that she received mail delivered in the Department's ordinary course of business. *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Claimant admitted on the record that she had never contacted OCS to provide information concerning her daughter's father. Accordingly, the Department properly concluded that Claimant was not in compliance with her child support reporting obligations.

Clients who do not cooperate with their child support reporting obligations are disqualified members of their FAP groups. BEM 212 (July 2014), p. 8; BEM 255, p. 13. The client is removed from the FAP eligibility group for a minimum of one month and is not returned to the FAP group until the later of the month after cooperation or after serving the one-month disqualification. BEM 255, p. 15. Because the Department established Claimant was not in compliance with her child support reporting obligations in this case, the Department acted in accordance with Department policy when it

removed Claimant as a disqualified member of her FAP group based on the child support noncooperation. Because Claimant's two children remained in her FAP group and the Department determined Claimant was eligible for \$347 in monthly FAP benefits, the maximum available to a FAP group with two qualified group members, the Department acted in accordance with Department policy in calculating the amount of Claimant's ongoing FAP benefits. RFT 260 (October 2014), p. 1; BEM 550 (February 2014), pp. 3-4; BEM 212 (July 2014), p. 8.

CDC Application Denial

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.

The Department testified that Claimant's July 3, 2014 CDC application was denied in a July 29, 2014 Notice of Case Action because Claimant failed to verify her provider assignment. One of the conditions for CDC eligibility is for the client to establish that an eligible provider is providing the care. BEM 703 (July 2011), p. 1. The client is responsible for obtaining any requested verifications needed to determine eligibility, which includes verification that (i) the client is using an enrolled and eligible provider, and (ii) the children are in care, the date care began, where care is provided and the provider's relationship to the children through the DHS-4025, Child Care Provider Verification form, signed by both the parent and the provider. BEM 702 (January 2011), p. 1.

In this case, the Department established that it sent Claimant a July 8, 2014 VCL requesting that she provide a DHS-4025 Child Care Provider Verification. Under the comments section, Claimant's worker advised Claimant that her chosen day care provider's ID number had expired and advised her that the provider had to contact the State to reinstate her ID number. Although Claimant denied receiving the VCL, she acknowledged that it was properly addressed to her; the Department denied receiving any returned mail sent to Claimant. Under these circumstances, Claimant has failed to rebut the presumption that she received the properly addressed VCL sent to her in the Department's ordinary course of business. See *Good, supra*. Because Claimant did not present any evidence establishing that she submitted a completed DHS-4025 before the July 29, 2014 Notice of Case Action denying her July 3, 2014 CDC application, the Department acted in accordance with Department policy when it denied Claimant's CDC application for failure to provide requested verification.

Claimant also testified that she had submitted CDC applications to the Department in May 2014 and in August 2014 that were never processed. The Department testified that the only application Claimant submitted after her July 3, 2014 application was on

September 3, 2014. The evidence at the hearing established that, at the time Claimant requested a hearing on September 18, 2014, that application was still being processed. Accordingly, it was not considered in this Hearing Decision. Because Claimant contended that she had also applied for CDC in August 2014, and initially approved for benefits but subsequently denied in September 2014, she was given the opportunity to present documentation in support of her position. She failed to do so. Therefore, there is no evidence of an August 2014 application that was improperly denied.

Claimant also contended that she had submitted a CDC application in May 2014 that was never processed. The Department testified that it had not reviewed whether Claimant had filed any CDC application prior to the July 3, 2014 application but provided documentation to show that the only applications it received in 2014 were the July 3, 2014 and September 3, 2014 applications. Claimant did not provide any documentation to support her testimony that she submitted an application in May 2014. Therefore, the evidence was insufficient to support Claimant's position that she had submitted a May 2014 CDC application that the Department failed to process.

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 denied Claimant's July 3, 2014 CDC application and reduced her FAP benefits effective September 1, 2014 but did not act in accordance with Department policy when it closed and sanctioned her FIP case.

DECISION AND ORDER

Claimant's September 18, 2014 request for hearing concerning her MA case is DISMISSED.

The Department's decisions are AFFIRMED IN PART with respect to the denial of Claimant's CDC case and reduction of her FAP benefits and REVERSED IN PART with respect to closure and sanction of her FIP case.

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 FIP employment-related sanction applied to Claimant's record on or about September 1, 2014;
2. Reinstate Claimant's FIP case effective September 1, 2014;

3. Issue supplements to Claimant for FIP benefits she would have received in the absence of a FIP sanction from September 1, 2014 ongoing.



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

Date Signed: **11/03/2014**

Date Mailed: **11/03/2014**

ACE / 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

