

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

IN THE MATTER OF:

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

Reg. No.: 2014-11877
Issue No(s): 1001
Case No.: ██████████
Hearing Date: January 23, 2014
County: Wayne Pathway to Potential

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 three way telephone hearing was held on January 23, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Pathway to Potential Worker and ██████████ to Potential Success Coach Mentor.

ISSUE

Did the Department properly process Claimant's Family Independence Program (FIP) 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 June 19, 2013, an administrative hearing was held with respect to Claimant's FIP benefits.
2. The June 19, 2013, Hearing Decision found that the Department did not act in accordance with Department policy when it closed Claimant's FIP case and ordered the Department to initiate certain actions with respect to Claimant's FIP benefits.

3. On October 30, 2013, Claimant submitted a hearing request disputing the Department's actions and requesting that the Department comply with the orders of the Administrative Law Judge (ALJ) in the June 19, 2013 Hearing Decision.

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, 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.

Additionally, Claimant requested a hearing regarding the Department's failure to comply with a previous administrative hearing decision with respect to her FIP benefits. The June 19, 2013, Hearing Decision orders the Department to remove the sanction that was imposed on Claimant's FIP case; to reinstate Claimant's FIP case effective September 1, 2012; and to issue supplements to Claimant for any FIP benefits that she was entitled to receive but did not from September 1, 2012,

According to BAM 600, the Department is to implement and certify a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600 (July 2013), pp. 38-40. At the hearing, the Department testified that after receiving the Hearing Decision that was mailed on July 10, 2013, it reinstated Claimant's FIP case effective September 2012 and issued a supplement for FIP benefits for September 2012. The Department stated that it was unable to issue continuing benefits or to provide Claimant with supplements for months after September 2012, because Claimant had reached the federal time limit for receipt of FIP benefits, effective April 2011. The Department testified that on July 15, 2013, it certified implementation of the decision and order and issued a Benefit Notice (DHS 176) to Claimant informing her that because she reached the lifetime limit for receipt of FIP benefits on April 2011, she was not eligible for her FIP supplements after September 2012.

Claimant disputed the Department's testimony and stated that she did not receive a FIP supplement for the month of September 2012. Claimant testified that she did not receive any communication from the Department regarding the Hearing Decision from the June 19, 2013, hearing and stated that she never received a Benefit Notice (DHS 176) informing her that she was ineligible for FIP benefits effective April 2011, based on the federal time limit. Claimant testified that the first time she became aware that she was no longer eligible for FIP benefits based on her reaching the FIP time limit was in a phone call with the Department in September 2013.

In this case, the Department testified that in July 2013, it sent Claimant a Benefit notice informing her that as of April 2011, she was no longer eligible for FIP benefits and that she would not be receiving the FIP supplements that the Department was ordered to provide her with. The Department confirmed that a Notice of Case Action was not sent to Claimant.

BAM 220 provides that the Department is to give timely notice for a negative action unless policy specifies adequate or no notice. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. BAM 220 (July 2013), p. 4. A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. BAM 220, p. 1.

The Department did not present any documentation to support its testimony that it properly complied with the June 19, 2013, Hearing Decision or that it issued Claimant the correct amount of supplements. Further, the Department cannot retroactively terminate a client's benefits or determine that they are no longer eligible to receive benefits without providing the client with timely notice. The Department should have complied with the exact orders of the ALJ in the prior hearing and if it was determined that Claimant was no longer eligible for future FIP benefits, the Department should have timely notified her of the reason for the intended action and given her an opportunity to react to the Department terminating her FIP benefits on the basis that she had exceeded the federal time limit.

The Department further argued that Claimant's hearing request was untimely, as the negative action taken by the Department occurred in July 2013, which is more than 90 prior to Claimant's hearing request. The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600, p. 5. Here, the Department did not send Claimant a Notice of Case Action and Claimant confirmed during the hearing that she was requesting a hearing regarding the Department's failure to properly comply with a prior hearing decision and issue supplements to her for the correct amount of FIP benefits. Therefore, the Department's assertion that Claimant's hearing request is untimely is not supported by Department policy.

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 has failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's FIP 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. Reinstate Claimant's FIP case effective September 1, 2012; and
2. Issue supplements to Claimant for any FIP benefits that she was entitled to receive but did not from September 1, 2012, ongoing.



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

Date Signed: February 13, 2014

Date Mailed: February 14, 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

2014-11877/ZB

Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ZB/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]