

IN THE MATTER OF:

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 February 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

FINDINGS OF FACT

1. Claimant was an ongoing recipient of FIP benefits.
2. On July 16, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP case would close effective August 1, 2013, because of her noncompliance with child support reporting obligations.
3. Claimant reapplied for FIP benefits on August 7, 2013.

4. On September 20, 2013, the Department sent Claimant a Notice of Case Action notifying her that her application was denied because of her noncompliance with child support reporting obligations.
5. On November 18, 2013, Claimant filed a request for hearing disputing the Department's actions concerning her FIP 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).

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 filed a request for hearing concerning her FIP case on November 18, 2013. Because Claimant's request for hearing was filed more than 90 days after the July 16, 2013, Notice of Case Action notifying her of the closure of her FIP case due to child support noncooperation, her hearing request concerning that action was not timely filed. See BAM 600 (July 2013), p. 5. However, Claimant's request for hearing was timely with respect to the September 20, 2013, Notice of Case Action denying her August 8, 2013, FIP application. Therefore, the Department's action denying the application is reviewed in this Hearing Decision.

The Department denied Claimant's application because it concluded that she was noncompliant with her child support reporting obligations.

Department policy requires the custodial parent of children to comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (July 2014), p. 1. At application, the Department must inform the client to contact OCS in a verification checklist (VCL) and give the client 10 days to cooperate with OCS. BEM 255, p. 12. If the client fails to cooperate on or before the VCL due date and there is no good cause pending or granted, the client is subject to a FIP disqualification. BEM 255, p. 12. A FIP disqualification results in group ineligibility for a minimum of one month. BBEM 255, p. 13.

In this case, the evidence at the hearing established that the child support noncooperation was due to Claimant's failure to provide OCS information concerning the paternity of her three minor children and her minor daughter's failure to provide OCS

information concerning the paternity of her child (Claimant's grandchild). Evidence at the hearing showed that OCS had found Claimant compliant with her child support reporting obligations as of November 18, 2013, and her daughter was compliant with her child support reporting obligations as of December 11, 2013.

OCS participated in the hearing and during the course of the hearing testified that its files indicated that Claimant had contacted the Department on July 22, 2013, concerning paternity of her three children. Although Claimant had not responded to OCS's return call, in reviewing the records, the OCS specialist participating in the hearing noted that OCS had on file affidavits of paternity identifying the legal father of the three children at issue and could have proceeded with its child support action without interviewing Claimant. Because OCS had the paternity information it had requested from Claimant, Claimant was cooperative with child support as of July 22, 2013, when she made initial contact with OCS. Therefore, the Department did not act in accordance with Department policy when it denied Claimant's August 7, 2013, FIP application due to her noncompliance.

The evidence at the hearing also addressed Claimant's daughter's child support noncompliance. Claimant's mother testified that, although OCS had found her grandchild compliant on December 11, 2013, she had first called OCS in July 2013 and left a message with the assigned OCS worker providing the same paternity information she later provided a second time to OCS in December 2013. The OCS specialist at the hearing testified that, prior to October 1, 2013, clients were required to leave messages with an assigned OCS agent, and she had no access to the agent's phone records to determine whether a message had been left concerning paternity of Claimant's grandchild. In the absence of any testimony disputing Claimant's mother's testimony that requested information concerning Claimant's grandchild's paternity was provided to OCS in July 2013, Claimant's daughter was compliant with her child support reporting obligations as of July 2013. See BEM 255, p. 9.

Because both Claimant and her daughter were compliant with their respective child support reporting obligations as of July 2013, 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 Department policy when it denied Claimant's August 7, 2013, FIP application.

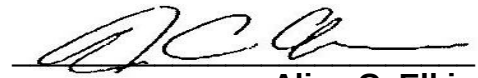
DECISION AND ORDER

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. Reregister Claimant's August 7, 2013, FIP application;

2. Reprocess the application;
3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from August 7, 2013, ongoing; and
4. Notify Claimant in writing of its decision.



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

Date Signed: February 5, 2014

Date Mailed: February 5, 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
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

2014-14661ACE

ACE/pf

cc:

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