

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-15821
Issue No(s): 1011, 2011, 3011
Case No.: [REDACTED]
Hearing Date: January 14, 2014
County: Wexford

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 January 14, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearings Coordinator [REDACTED] and Family Independence Specialist [REDACTED]. The Office of Child Support (OCS) did not participate in the hearing.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP – Cash Assistance) and reduce her Food Assistance Program (FAP) 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 on-going recipient of FIP and FAP.
2. Claimant gave birth to a son on June 7, 2013.
3. On August 12, 2013, the OCS determined Claimant was not cooperating in efforts to identify the father of her son.
4. On September 20, 2013, the Department imposed penalties on the Claimant for failing to cooperate with the OCS.
5. Claimant's FAP was reduced and her FIP was closed.
6. On November 12, 2013, the Claimant requested a hearing on the issues of MA, FIP, and FAP.

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.

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Claimant testified that her child was the result of a one-night stand while she was visiting Grand Haven in mid-September 2012. She met a fellow at a bar and, after “a few too many drinks” she and he took a taxi back to her motel. She had not been intimate with any other man within a time that could possibly have resulted in this child. She does not recall the man’s name. She has contacted people at places where she recalls being that night, trying to find any information she can about the father, but the only description she could get was that he was a white male, of average build.

If this were a Medicaid case, “Refusal to provide necessary eligibility information or to cooperate with a QC review results in ineligibility for:

- The person about whom information is refused, and
- That person’s spouse if living in the home, and
- That person’s unmarried children under 18 living in the home.

“Note: Failure to cooperate with Social Security numbers (BEM 223), Child Support (BEM 255) or Third Party Resource Liability (BEM 257) requirements might disqualify a person but is **not** a refusal of necessary eligibility information.” (Emphasis in original.) BAM 105, p. 8.

Since this is not a Medicaid case, guidance must be found elsewhere.

As stated on page 7 of BAM 105, "Clients who are able but refuse to provide necessary information or take a required action are subject to penalties." However, BAM 130 at page 3 states, "The client must obtain required verification, but you must assist if they need and request help. If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment."

The Claimant testified convincingly that she is unable to provide any additional information that would help identify the father. Because she is unable to provide the requested verification, the Department must use its "best judgment". In this case, "best judgment" would be to process Claimant's application using the information that is available, rather than denying her application due to circumstances beyond her control.

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 closed Claimant's FIP and reduced her FAP.


Although the Claimant's Hearing Request indicates an issue with MA, and the Hearing Summary also indicates an issue with MA, nothing in the Notice of Case Action indicates Claimant has experienced any adverse action with MA. Therefore, no decision is made with respect to MA.

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. Redetermine Claimant's FIP and FAP benefit eligibility, effective September 1, 2013;
2. Issue a supplement to Claimant for any benefits improperly not issued.


Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 15, 2014

Date Mailed: January 15, 2014

NOTICE OF APP EAL: 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

DTJ/las

cc:

