

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

IN THE MATTER OF:



Reg. No.: 15-008451
Issue No.: BVL
Case No.:
Hearing Date: August 12, 2015
County: DHHS SSPC

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Petitioner filed a request for a hearing, under a United States District Court Order issued on January 9, 2015, which allowed the pursuit of potential benefit recovery related to a Michigan Department of Health and Human Services (Department or DHHS) criminal justice disqualification. This matter is now before the undersigned Administrative Law Judge pursuant to the United States District Court Order.

After due notice, a 3-way telephone hearing was held on August 12, 2015, from Detroit, Michigan. , Petitioner's spouse/a member of Petitioner's group, appeared on behalf of the Petitioner. , Eligibility Specialist, appeared on behalf of the Department.

ISSUE

Did the Department deny, terminate or reduce Petitioner's benefits for the Family Independence Program (FIP), State Disability Assistance Program (SDA), Refugee Assistance Program (RAP), or Child Development and Care (CDC) due to fugitive felon status of Petitioner or a member of Petitioner's group during the timeframe of December 30, 2012 through January 9, 2015?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner either applied for or received, or was a member of a group that received, FIP, SDA, RAP, or CDC benefits.
2. The Department did deny, terminate, or reduce Petitioner or a member of Petitioner's group CDC benefits during the timeframe from December 30, 2012 to January 9, 2015.

3. In *Barry v Corrigan*, No. 13-cv-13185, 2015 WL 136238 (ED Mich Jan 9, 2015), and its March 31, 2015 Order Regarding...Implementation of the Court's January 9, 2015 Order, the Court set forth a process by which applicants or beneficiaries of FIP/SDA/RAP/CDC benefits during the timeframe from December 30, 2012 to January 9, 2015 could seek restoration of the benefits through an administrative hearing process. The process also required that the Department send notices to applicants and beneficiaries that were denied, terminated, or reduced FIP, SDA, RAP, or CDC benefits. The notices were to include a *Barry v. Lyon* Request for Hearing Form which must be used to request an administrative hearing.
4. On [REDACTED], Petitioner's spouse filed a *Barry v. Lyon* Request for Hearing Form, before the deadline date identified on the form, seeking restoration of benefits due to the Department denying, terminating, or reducing FIP, SDA, RAP, or CDC benefits during the timeframe from December 30, 2012 to January 9, 2015. Exhibit A, p. 4.
5. The Department did deny, terminate, or reduce Petitioner's or a member of Petitioner's group FIP/SDA/RAP or CDC benefits based on the fugitive felon status during the timeframe from December 30, 2012 to January 9, 2015.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) 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-.3131.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Refugee Assistance Program (RAP) program is established under P.L. 106-386 of 2000, Section 107, and administered by the Department of Health and Human Services pursuant to 45 CFR 400.45-.69 and 401.12 and MCL 400.10.

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.

In *Barry v Corrigan*, No. 13-cv-13185, 2015 WL 136238 (ED Mich Jan 9, 2015), the Court concluded that notices the Department sent clients and applicants from December 30, 2012 to January 9, 2015 denying, terminating, or reducing FIP, SDA, RAP, or CDC benefits due to fugitive felon disqualification violated procedural due process under the Fourteenth Amendment to the U.S. Constitution. The Court's March 31, 2015 Order Regarding...Implementation of the Court's January 9, 2015 Order set forth a process for which applicants or beneficiaries of FIP, SDA, RAP, or CDC benefits from December 30, 2012 to January 9, 2015 could seek restoration of the benefits through an administrative hearing process if those benefits were affected due to fugitive felon disqualification. Petitioner sought restoration of benefits through this administrative hearing process. This Administrative Law Judge is obligated to determine whether Petitioner's benefits were affected due to fugitive felon disqualification pursuant to the Court's March 31, 2015 Order Regarding...Implementation of the Court's January 9, 2015 Order.

At the hearing, the Department testified and provided document evidence that it did deny, terminate, or reduce Petitioner's or a member of Petitioner's group FIP/SDA/RAP or CDC benefits based on the fugitive felon status during the timeframe from December 30, 2012 to January 9, 2015. Specifically, on [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her CDC benefits would close effective [REDACTED], ongoing, due to a criminal justice disqualification. See Exhibit A, pp. 5-10. Petitioner's spouse agreed with the Department's testimony/evidence; however, indicated that the CDC benefits were also possibly denied, terminated, or reduced due to the fugitive felon status for the following time periods: (i) on or around the years 2012 or 2013; and (ii) the summer of 2014. It should be noted that Petitioner's spouse indicated that the Cash programs were not at issue in this case.

The Department indicated that a review of the Department's system showed no other instances in which the CDC benefits were closed, terminated, or reduced based on the fugitive felon disqualification. The Department testified that on [REDACTED], the Department sent Petitioner a Notice of Case Action informing her that her CDC benefits would close effective [REDACTED], ongoing, based on a failure to comply with the verification requirements. However, the Department indicated that this closure was not based on a fugitive felon disqualification. Nevertheless, the undersigned finds that the Department did deny, terminate, or reduce Petitioner's or a member of Petitioner's group FIP/SDA/RAP or CDC benefits based on the fugitive felon status during the timeframe from December 30, 2012 to January 9, 2015.

DECISION

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, determines that the Department did deny, terminate or reduce Petitioner's benefits in one or more of the following programs: Family Independence Program (FIP), State Disability Assistance Program (SDA), Refugee Assistance Program (RAP), or Child Development and Care (CDC) due to fugitive felon status of Petitioner or a member of Petitioner's group during the timeframe of December 30, 2012 through January 9, 2015.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/13/2015**

Date Mailed: **8/13/2015**

EF / hw

cc:

