

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

IN THE MATTER OF:



MAHS Reg. No.: 15-011377
Issue No.: BVL
Agency Case No.: [REDACTED]
Hearing Date: November 5, 2015
County: Special Processing Office

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Petitioner filed a request for a hearing pursuant to a United States district court order issued on January 9, 2015 which allowed the pursuit of potential benefit recovery related to a criminal justice disqualification imposed by the Michigan Department of Health and Human Services (Department). This matter is now before the undersigned administrative law judge.

After due notice, a 3-way telephone hearing was held on November 5, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED] specialist.

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 was a group member receiving, FIP, SDA, RAP, or CDC benefits.
2. The Department did deny, terminate, or reduce Petitioner's cash assistance eligibility during the period 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 June 24, 2015, Petitioner timely filed a *Barry v. Lyon* Request for Hearing 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.

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.

Petitioner requested a hearing alleging the Department improperly imposed a criminal justice disqualification affecting CDC eligibility. Petitioner's hearing request also alleged cash assistance was adversely affected though Petitioner testimony conceded that her cash assistance eligibility was not adversely affected. The hearing request was submitted pursuant to a federal lawsuit.

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.

Department testimony conceded that Petitioner's CDC eligibility was adversely affected by a fugitive felon disqualification during the period from December 30, 2012 to January 9, 2015. It is found that MDHHS improperly affected Petitioner's CDC eligibility due to a fugitive felon disqualification during the timeframe of December 30, 2012 through 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 FIP, SDA, RAP, SDA, and/or CDC eligibility 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.



Christian Gardocki

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **11/6/2015**

Date Mailed: **11/6/2015**

CG/tm

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, Petitioner may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System.

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