

2014 to September 6, 2014 and September 21, 2014 to November 1, 2014; and (iii) approving CDC coverage for December 14, 2014 to December 27, 2014; December 28, 2014 to January 10, 2015; and March 8, 2015, ongoing (Exhibit D).

5. On March 25, 2015, Claimant filed a request for hearing disputing the Department's actions concerning FIP and CDC.

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 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.

Claimant requested a hearing concerning her FIP and CDC application. Although Claimant had stated at the beginning of the hearing that she was also concerned about the Department's failure to pay her day care provider for services provider for December 13, 2014, to January 5, 2015, during the course of the hearing, she indicated that that issue had been resolved to her satisfaction. Therefore, the issues addressed herein are limited to the Department's denial of Claimant's January 7, 2015, FIP application and its failure to process her January 7, 2015, CDC application.

The February 10, 2015, Notice of Case Action informed Claimant that her FIP application was denied because she had failed to verify requested information and to comply with employment-related activities. The Department testified at the hearing that Claimant had submitted all requested documents and acknowledged that any denial of Claimant's FIP application due to failure to verify was erroneous.

The Department explained that Claimant's January 7, 2015, FIP application was denied because she had failed to complete the PATH orientation process. A client's FIP

application cannot be approved until the client completes the 21-day PATH application eligibility period (AEP) part of orientation. BEM 229 (July 2013), p. 1. This requires that the client (1) begin the AEP by the last date to attend indicated on the PATH Appointment Notice, (2) complete the PATH AEP requirements, and (3) continue to participate in PATH after completion of the 21-day AEP. BEM 229, p. 1.

In this case, the Department presented a January 26, 2015, PATH Appointment Notice addressed to Claimant requiring her to attend a February 2, 2015, PATH orientation. The Department also presented case notes entered by a PATH program worker indicating that the worker contacted Claimant on January 28, 2015, to remind her of her February 2, 2015, appointment and that Claimant confirmed her attendance at that time. Claimant denied receiving the February 2, 2015, PATH Appointment Notice or the confirmation call from the PATH worker. She testified that she had ongoing child care issues that had not been resolved as of February 2, 2015, and, had she been contacted by a PATH worker, she would have advised her that she could not attend the February 2, 2015, appointment because of lack of day care.

The Department is responsible and must assist clients who present with child care barriers **before** requiring PATH attendance. BEM 229, p. 2. The evidence in this case established that Claimant applied for CDC benefits at the same time that she applied for FIP. The Department testified that Claimant had submitted all required documents to process her CDC application. The February 10, 2015, Notice of Case Action addressed Claimant's CDC eligibility but not for the period from January 11, 2015, to March 8, 2015. While the Department testified that Claimant was ultimately approved for CDC benefits, there was no evidence presented that Claimant's CDC application was processed before the January 28, 2015, PATH Appointment Notice was sent to her requiring her to attend a February 2, 2015, orientation. To the contrary, it appears that any approval did not occur before February 4, 2015. The Department also acknowledged that it was aware that Claimant's provider refused to provide day care services for Claimant's children until it was paid for services provided between December 27, 2014, and January 5, 2015, a period during which Claimant had been approved for CDC payments but the Department had failed to issue payment.

In light of the lack of evidence that the Department addressed Claimant's child care issues before sending the January 28, 2015, PATH Appointment Notice, the Department did not act in accordance with Department policy when it denied Claimant's January 7, 2015, FIP application and when it failed to process Claimant's January 7, 2015, CDC application for eligibility.

A closer review of the February 10, 2015, Notice of Case Action denying Claimant's FIP application also shows that the Department notified Claimant that, as a consequence of her noncompliance with employment-related activities, her case would close for a three-month minimum. A client's noncompliance with FIP-related employment activities while an application is pending results in group ineligibility. BEM 233A (October 2014), p. 7.

FIP sanctions resulting in case closure for at least three months apply only to active FIP cases. BEM 233A, p. 8.

There was no evidence presented in this case that Claimant was an ongoing recipient of FIP benefits. Further, if Claimant had been an ongoing recipient of FIP benefits, prior to closing her case and sanctioning it, she would be entitled to a triage to establish good cause for any noncompliance. BEM 233A, p. 9. There was no evidence in this case that there was a triage scheduled. Therefore, the Department did not act in accordance with Department policy when it sanctioned Claimant's FIP case.

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 January 7, 2015, FIP application, failed to process the January 7, 2015, CDC application, and applied a FIP sanction to Claimant's FIP case.

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. Remove any FIP employment-related sanction applied to Claimant's record on or about February 1, 2015;
2. Reregister and reprocess Claimant's January 7, 2015, FIP and CDC application;
3. Issue supplements to Claimant and/or Claimant's provider for any FIP or CDC benefits Claimant was eligible to receive but did not from the date of application ongoing; and
4. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/6/2015**

