

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-011365
Issue No.: BVL
Agency Case No.: [REDACTED]
Hearing Date: September 09, 2015
County: DHHS SSPC Office

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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) 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 September 9, 2015, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on her own behalf. [REDACTED], 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 cash assistance 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 May 15, 2015, Petitioner 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.
5. The Department did not deny, terminate, or reduce FIP, SDA, RAP, or CDC benefits during the timeframe from December 30, 2012, to January 9, 2015, due to fugitive felon status.

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 (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 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 hearing, the Department testified and/or provided documentary evidence that it did not deny, terminate, or reduce FIP, SDA, RAP, or CDC benefits due to fugitive felon disqualification during the relevant time period. The Eligibility Specialist credibly testified that on or about March 16, 2013, Petitioner applied for cash assistance and was denied. However, the reason for the denial was not a fugitive felon criminal justice disqualification. Rather, the denial was based on other reasons, such as employment services non-cooperation third offense and group not eligible because a group member had not meet school attendance requirements.

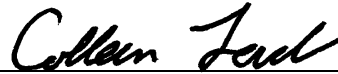
Petitioner testified that she was not able to meet the participation requirements for the employment services provider because she was on a tether. While the tether related to Petitioner's criminal justice situation at that time, there is no evidence that this caused the Department to deny benefits due to a criminal justice disqualification based on fugitive felon status.

As discussed during the hearing proceedings, the only issue that can be considered for this appeal is whether the Department denied, terminated, or reduced FIP, SDA, RAP, or CDC benefits due to fugitive felon disqualification during the relevant time period. Other reasons for a denial of cash assistance or child care benefits cannot be reviewed as part of this hearing proceeding. Overall, the evidence establishes that the denial of cash assistance was not based on fugitive felon status. There was no evidence that FIP, SDA, RAP, or CDC benefits were denied due to a fugitive felon criminal justice disqualification during the relevant time period.

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 not 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.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **9/11/2015**

CL/jaf

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the Claimant 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.

cc:

