

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

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 15-019878
Issue Nos.: 1002, 2002, 3002
Agency Case No.: ██████████
Hearing Date: December 10, 2015
County: Wayne (49-Gr River/Warren)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 10, 2015, from Detroit, Michigan. Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by ██████████
██████████

ISSUE

Did the Department properly deny Petitioner's Family Independence Program (FIP) application and reduce the Petitioner's 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. On January 6, 2015, Petitioner applied for FIP benefits.
2. Petitioner was an ongoing recipient of MA benefits.
3. On August 5, 2015, the Department sent Petitioner a verification checklist requesting various pieces of documentation/information.
4. On August 14, 2015, the Department sent Petitioner a notice of case action informing her that her FAP benefits had been decreased due to noncooperation with the Office of Child Support (OCS).

5. On October 21, 2015, Petitioner requested a hearing to protest (1) the denial of her FIP application, (2) the reduction of her FAP benefits, and (3) the closure of her MA benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and 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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

FAP Reduction

The Department testified that Petitioner's FAP benefits were reduced for noncooperation with the OCS.

At the beginning of the hearing, the undersigned Administrative Law Judge attempted to contact OCS at three different phone numbers to no avail.

Petitioner testified under oath that she had provided all of the documentation/information she had concerning father of her child/children.

In *Black v Dept of Social Services*, 195 Mich App 27 (1992), the Court of Appeals addressed the issue of burden of proof in a non-cooperation finding. Specifically, the court in *Black*

ruled that to support a finding of non-cooperation, the agency has the burden of proof to establish that the mother (1) failed to provide the requested verification and that (2) the mother knew the requested information. The *Black* court also emphasized the fact that the mother testified under oath that she had no further information and the agency failed to offer any evidence that the mother knew more than she was disclosing. *Black* at 32-34.

In this case, Claimant also testified under oath that she had no further information about her child's father.

MA Closure

The Department testified that effective November 1, 2015, ongoing, Petitioner's MA benefits were extended. Therefore, Petitioner's request for a hearing on the closure of her MA benefits is DISMISSED.

FIP Denial

Petitioner applied for FIP on January 6, 2015. The Department admits error in failing to process or register this application in a timely manner.

The record also shows that the Department attempted to address Petitioner's FIP benefits by providing documentation of Petitioner's disability associated with the birth of her child [REDACTED]

The Department provided Petitioner forms to be completed by Petitioner's physician and returned to the Department in a timely manner. Had the forms been completed by Petitioner's physician, Petitioner would have been excused from attending PATH and still qualified for FIP benefits.

The record shows that Petitioner did not provide forms completed by her physician but completed them herself and turned them in late.

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 acted in accordance with Department policy when it denied Petitioner's FIP application for failure to provide the necessary verifications; failed to satisfy its burden of showing that it acted in accordance with Department policy when it reduced Petitioner's FAP benefits for failure to comply with OCS.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the FIP denial and **REVERSED IN PART** with respect to the reduction of her FAP benefits for failure to comply with OCS.

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 the OCS sanction and reinstate Petitioner's full FAP benefits and supplement for FAP benefits previously decreased.



Michael J. Bennane
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/11/2016**

Date Mailed: **1/11/2016**

MJB / pf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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.

