



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 25, 2016
MAHS Docket No.: 15-024538
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 March 3, 2016, from Detroit, Michigan. Petitioner appeared for the hearing with her daughter, [REDACTED] and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], PATH Worker.

ISSUES

Did the Department properly process Petitioner's Family Independence Program (FIP) and State Disability Assistance (SDA) benefits?

Did the Department properly close Petitioner's Child Development and Care (CDC) case on the basis that she failed to complete and return a redetermination?

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 was an ongoing recipient of CDC benefits.
2. In connection with a redetermination, Petitioner's eligibility to receive CDC benefits was reviewed.

3. On November 16, 2015, the Department sent Petitioner a Redetermination for her CDC case that she was instructed to complete and return to the Department by December 1, 2015. (Exhibit H)
4. The Department did not receive Petitioner's completed Redetermination by December 1, 2015. (Exhibit J)
5. On December 10, 2015, the Department sent Petitioner a Notice of Potential CDC Closure informing her that effective December 31, 2015, her CDC case would be closed because she failed to return the Redetermination form. (Exhibit I)
6. On or around November 23, 2015, Petitioner submitted an application for cash assistance benefits. (Exhibit A)
7. On her application, Petitioner reported that she is not disabled. Petitioner reported that her [REDACTED] old daughter is disabled. (Exhibit A)
8. On November 25, 2015, the Department sent Petitioner a Notice of Case Action (Notice) advising her that she was denied FIP benefits for the period of December 16, 2015, ongoing and that she was approved for SDA benefits for the period of December 16, 2015, ongoing. The Notice did not inform Petitioner of the reason for the denial of her FIP application. (Exhibit B)
9. On December 15, 2015, the Department sent Petitioner a Notice informing her that for the period of December 16, 2015, to December 31, 2015, she was approved for \$347 in FIP benefits and that for the period of January 1, 2016, ongoing, her SDA case would be closed on the basis that she does not meet program requirements. The Notice further informed Petitioner that effective January 1, 2016, her CDC case would be closed on the basis that she failed to provide the Department with requested information. (Exhibit C)
10. According to the eligibility summary, Petitioner received \$347 in FIP and \$100 in SDA for the period of December 16, 2015, to December 31, 2015. Petitioner did not receive any cash assistance benefits beginning January 1, 2016. (Exhibit G)
11. On December 30, 2015, Petitioner requested a hearing disputing the Department's actions.

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).

CDC

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.

The Department must periodically redetermine an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (July 2015), p 1. Unless otherwise specified by Department policy, a client must complete a redetermination at least every 12 months in order for the Department to determine the client's continued eligibility for benefits. BAM 210, p. 1. For CDC cases, when redetermination packets are not logged by the 10th day of the redetermination month, a Notice of Potential CDC closure will be generated which informs the client that CDC benefits will end the pay period that holds the last day of the month. If the redetermination is not logged in by the negative action cut-off date of the redetermination month, Bridges will generate a Notice of Case Action and automatically close the CDC case. BAM 210, pp. 10-11.

In this case, the Department testified that because it did not receive a completed redetermination form from Petitioner by the due date and because it did not receive any contact from Petitioner concerning the redetermination, it sent Petitioner a Notice of Potential CDC closure and subsequent Notice of Case Action advising her that effective January 1, 2016, her CDC case would be closed. Petitioner testified that she did not complete and return the Redetermination because she did not receive the form. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption, however, may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Petitioner confirmed that the mailing address which the Redetermination was sent was her correct mailing address and stated that she was not having any problems with receiving mail. Petitioner further confirmed that she received the Notices informing her of the CDC case closure. Thus, based on Petitioner's testimony at the hearing, she has not presented sufficient evidence to rebut the presumption that she received the Redetermination.

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 closed Petitioner's CDC case.

FIP/SDA Cash Assistance

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.

To be eligible for FIP benefits both of the following must be true: the group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker.; and the group cannot include an adult who has accumulated more than 60 TANF funded months, beginning October 1, 1996, or any other time limits in the FIP; see BEM 234. BEM 210 (October 2014), p. 1. SDA is a cash program for individuals who are not eligible for FIP. BEM 214 (April 2014), p. 1. To receive SDA benefits, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (July 2015), p.1. There is no time limit on receipt of SDA benefits.

In this case, the Department testified that Petitioner was ineligible for FIP benefits and that her case was closed effective January 1, 2016, because she had reached the federal time limit for receipt of FIP benefits. The Department stated that Petitioner was approved for the \$347 in error and that she should not have received the FIP grant. Although the Department presented some evidence to support its position that Petitioner may have received more than 60 TANF funded months, a review of the documentation presented and based on the Department's testimony at the hearing, the Department did not notify Petitioner of her ineligibility for FIP due to her exceeding the time limit, which is required by Department policy. See BAM 220. Thus, the Department failed to establish that it properly processed Petitioner's FIP application.

With respect to SDA, the Department testified that Petitioner was not eligible for SDA because she indicated on her cash assistance application that she was not disabled. (Exhibit A). The Department stated that Petitioner was approved for SDA in error and that when it discovered the error, it sent Petitioner a Notice advising her that her SDA case would close effective January 1, 2016. Although the Department is correct that Petitioner did not indicate she was disabled on her application, Petitioner did indicate that her [REDACTED] year old daughter who is listed as a household member is disabled. (Exhibit A). It was unclear if Petitioner indicated on her application that she was caring for her disabled daughter, as only three pages of the application were presented for review. Because Petitioner indicated on her application that she has a disabled person in her home, the Department should have requested that Petitioner provide verification of the disability in accordance with BEM 261, p.4.

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 processed Petitioner's cash assistance application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to CDC and **REVERSED IN PART** with respect to FIP/SDA.

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. Register and process Petitioner's November 23, 2015, application for cash assistance to determine her eligibility for cash assistance under the FIP and SDA programs from the application date, ongoing;
2. Issue supplements to Petitioner for FIP or SDA benefits that she was entitled to receive, if any, but did not from the November 23, 2015, application date, ongoing, in accordance with Department policy; and
3. Notify Petitioner of its decision in writing.



ZB/tlf

Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

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