

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-50841
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 12, 2012
County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following claimant's request for a hearing. After due notice, an in-person hearing was held on March 12, 2012, from Detroit, Michigan. Participants on behalf of claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny claimant's application for Family Independence Program (FIP) benefits for failure to comply with work-related activities?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for FIP on May 25, 2011.
2. Claimant alleged at the time that she would not be able to attend JET due to disability related to a current pregnancy.
3. Claimant was given a medical form to return to verify the medical difficulty, and was scheduled to attend JET before June 15, 2011.
4. Claimant had her child on [REDACTED].
5. Claimant faxed the medical form and verification of birth to her caseworker on [REDACTED].
6. Claimant's forms arrived at the Department; however, there was an error in the fax transmission that made the returned form difficult to read.

7. DHS was aware that claimant had given birth on [REDACTED].
8. DHS did not make a reasonable attempt to verify the information contained in the distorted form.
9. Claimant did not attend JET by June 15, 2011.
10. On June 18, 2011, claimant's FIP application was denied.
11. On August 17, 2011, claimant filed for hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full-time must be referred to the Jobs, Education and Training (JET) Program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. Clients who have not been granted a deferral must participate in employment and/or self-sufficiency related activities to increase their employability and to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1.

A new mother with a child under the age of two months is to be disregarded for the purposes of employment services for two months. BEM 230A.

Claimant argued that she had notified the Department regarding the [REDACTED], birth of her child, and provided a verification of birth showing that the child in question was born on the date indicated.

The Department received a fax on [REDACTED]; however, this fax was damaged in transmission, and only partially arrived at the DHS office, in a form that was half-illegible.

When asked whether the Department received the verification of birth, and when the verification was received, the Department representative was unable to answer the question, but did respond that the Department was aware of the birth.

Furthermore, the Department testified that it attempted one phone call to claimant at the listed phone number when the damaged fax arrived; claimant, who was in the hospital at the time, understandably did not answer. The Department did not testify that a message was left, and the Department did not testify that any further attempt was made to verify the faxed information.

Even though the Department was aware that a verification had been returned that could have removed claimant's JET requirements, and that verification was damaged through no fault of claimant, the Department made no reasonable attempt to clarify that verification. One phone call, with no message, does not constitute a reasonable attempt, especially in the light that the verification most likely would remove claimant's JET requirements.

Also, as claimant had given birth on [REDACTED], there is no question as to whether claimant was actually required to attend JET; according to a strict interpretation of policy, claimant was not required to attend JET. The only question in this case is whether the Department was aware of the birth, or should have been aware. The Department could not testify satisfactorily as to whether they were actually aware; therefore, as claimant testified credibly that she had notified the Department, and the

Department failed to rebut this testimony, and only responded to this testimony with a response of "this happened a long time ago, I don't remember", the Administrative Law Judge holds that a preponderance of the evidence shows that the Department was aware of the birth.

However, the Administrative Law Judge also holds that the Department should have been aware of the birth: claimant faxed verification of the birth and medical needs to the Department, it was damaged through no fault of claimant, the Department was aware of the damage but made no reasonable attempt to rectify the damage. Therefore, as claimant made a reasonable attempt to notify the Department, but the Department made no reasonable attempt to clarify claimant's information, and did not notify claimant that the information was damaged before case closure, the Administrative Law Judge must hold that the Department should have been aware of claimant's post-partum status.

Therefore, as the Department was aware, or should have been aware, of claimant's exception to JET requirements, the Department was in error when it denied claimant's FIP application for failure to follow JET requirements. The application in question must be reprocessed.

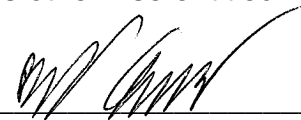
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly when . did not act properly when they denied claimant's May 25, 2011, FIP application.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reprocess claimant's May 25, 2011, FIP application retroactive to the date of application, and award claimant any benefits to which she is otherwise entitled.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 20, 2012

Date Mailed: March 20, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

RJC/pf

cc:

