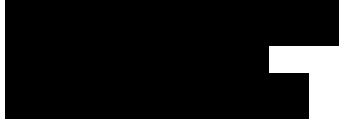


**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES**

**IN THE MATTER OF:**



Reg. No.: 201146435  
Issue No.: 1005; 1034  
Case No.:   
Hearing Date: October 20, 2011  
County: Wayne (31)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**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, a telephone hearing was held on October 20, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included Jennifer Smith, JET/Family Independence Specialist worker.

**ISSUE**

Did the Department properly  deny Claimant's application  close Claimant's case for:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)?    |
| <input type="checkbox"/> Food Assistance Program (FAP)?                | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)?                      | <input type="checkbox"/> Child Development and Care (CDC)?  |

**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 benefits  received benefits for:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP).    |
| <input type="checkbox"/> Food Assistance Program (FAP).                | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA).                      | <input type="checkbox"/> Child Development and Care (CDC).  |

2. On January 20, 2011, the Department  
 denied Claimant's application     closed Claimant's case  
 due to noncooperation with child support.
3. On January 20, 2011, the Department sent  
 Claimant     Claimant's Authorized Representative (AR)  
 notice of the     denial.     closure.
4. On several occasions, Claimant filed a hearing request, protesting the  
 denial of the application.     closure of the case.

### **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 1999 AC, Rule 400.3101 through Rule 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 1999 AC, Rule 400.3001 through Rule 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, Rule 400.3151 through Rule 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 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, in this case, Claimant applied for FIP benefits on January 10, 2011, and her application was denied on January 20, 2011. Claimant subsequently reapplied for FIP benefits, her application was approved, and she began receiving benefits on June 1, 2011. Thus, at the hearing, Claimant was seeking benefits for the period from the time of her original application to May 31, 2011.

Claimant originally requested a hearing with respect to the Department's denial of her application on March 31, 2011, and a hearing was scheduled on May 11, 2011. Claimant admits she signed a Request for Withdrawal with respect to that hearing, indicating on the form that she now understood the Department's action. However, she subsequently filed another Request for Hearing on May 19, 2011, again seeking a hearing with respect to her January 2011 FIP application. She filed another Request for Hearing regarding her FIP benefits on June 14, 2011. When asked at the hearing why she had signed the withdrawal regarding the May 11, 2011 hearing, Claimant explained that she appeared at the local office that day and met with two workers who advised her that she had to reapply for benefits and informed her that no judge was present. Claimant testified that she did not realize that she could participate in a phone hearing with a judge with respect to the January denial of her benefits and felt pressured by the workers to sign the withdrawal. The foregoing evidence establishes that Claimant did not understand that she had a right to a hearing and that she did not knowingly waive this right. Further, the Department appears to have encouraged the withdrawal, contrary to Department policy. BAM 600. Under these circumstances, Claimant was entitled to the current hearing concerning the January 20, 2011 FIP denial, despite her prior withdrawal of her request for hearing with respect to that matter.

The January 20, 2011, Notice of Case Action denied Claimant's FIP application on the basis that she had failed to cooperate with child support. At application, if a client has a support disqualification, the Department must issue a verification checklist (VCL) advising the client of the noncooperation and imposing a disqualification if the client fails to cooperate within ten days of the date of the VCL. BEM 255. At the interview, the Department must inform the applicant that the disqualification will be imposed unless a comply date is timely received. BEM 255. In this case, the Department acknowledged that it failed to send a VCL to Claimant in connection with her application. Further, although Claimant applied on January 10, 2011, she did not have an in-person interview with her caseworker until January 20, 2011. The Department testified that Claimant was advised of her noncooperation status at the in-person interview. However, a Notice of Case Action denying Claimant's application was issued on the same date. As such, Claimant did not have the ten-day opportunity to address the failure to cooperate issue.

Claimant credibly testified that she contacted the Office of Child Support (OCS) on January 23, 2011, and advised the OCS that her child's father was deceased, and that the OCS worker informed the Department on January 24, 2011, that Claimant was no longer in noncompliance with child support. The Department was unable to present any evidence to contradict Claimant's testimony. Because the Department failed to allow Claimant the opportunity to address her noncompliance as required under BEM 255 before denying her FIP application and Claimant addressed the noncompliance issue within ten days of being advised of the noncompliance, the Department improperly denied Claimant's January 10, 2011 FIP application.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly denied Claimant's application     improperly denied Claimant's application  
 properly closed Claimant's case         improperly closed Claimant's case

for:  AMP  FIP  FAP  MA  SDA  CDC.

### **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.         did not act properly.

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. Reregister Claimant's January 10, 2011 FIP application;
2. Supplement Claimant for FIP benefits for the period from her application to May 31, 2011, in accordance with Department policy.



\_\_\_\_\_  
**Alice C. Elkin**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 10/28/11

Date Mailed: 10/28/11

**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

ACE/dj

cc:

