

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-13141
Issue No.: 1038; 3029
Case No.: [REDACTED]
Hearing Date: December 22, 2011
County: Wayne (18)

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 December 22, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED] Claimant's mother. Participants on behalf of Department of Human Services (Department) included [REDACTED] Family Independence Specialist, and [REDACTED], JET Coordinator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case effective October 1, 2011, for noncompliance with employment-related activities without good cause?

Did the Department properly deny Claimant's November 2, 2011, FIP application?

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits effective October 1, 2011?

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 was an ongoing recipient of FIP and FAP benefits.
2. Following a redetermination in connection with her continued FIP eligibility, the Department discovered that Claimant was not participating in employment-related activities in conjunction with her FIP benefits.
3. On August 3, 2011, the Department sent Claimant a Notice of Noncompliance and scheduled a meeting between Claimant and the Department specialist on August 11, 2011.
4. Claimant attended the meeting and contended that she did not participate in employment-related activities because she was disabled.
5. The Department (i) gave Claimant a medical needs form, requiring Claimant to submit the completed form by August 22, 2011, and (ii) scheduled Claimant to attend a WorkFirst orientation on August 29, 2011, in the event Claimant did not submit the medical needs form.
6. Claimant did not timely submit the medical needs form and did not attend the WorkFirst orientation.
7. On September 1, 2011, the Department sent Claimant a Notice of Case Action, closing Claimant's FIP case effective October 1, 2011 and reducing her FAP benefits effective October 1, 2011, by excluding her as a member of her FAP group.
8. On November 2, 2011, Claimant applied for FIP benefits.
9. On November 4, 2011, the Department denied Claimant's FIP application because her FIP case was penalized with a minimum three-month closure as a result of Claimant's noncompliance with employment-related obligations.
10. On November 4, 2011, the Department sent Claimant notice of the denial.
11. On November 14, 2011, Claimant filed a hearing request, protesting the Department's actions concerning her FIP and FAP benefits.

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, R 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, R 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, R 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, R 400.5001 through Rule 400.5015.

Closure of FIP Case

In a September 1, 2011, Notice of Case Action, the Department notified Claimant of the closure of her FIP case effective October 1, 2011, based on her failure to participate in employment-related activities without good cause.

In order to increase their employability and obtain employment, work eligible individuals (WEIs) seeking FIP are required to participate in the Jobs, Education, and Training (JET) Program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A; BEM 233A. Failing or refusing to attend or participate in a JET program or other employment service provider without good cause constitutes a noncompliance with employment or self-sufficiency related activities. BEM 233A.

In this case, following an August 2011 redetermination in connection with Claimant's continued FIP eligibility, the Department discovered that, despite being an ongoing recipient of FIP benefits, Claimant was not participating in job-related activities and there was no substantiation in Claimant's file for any long-term deferral from such activities. On August 3, 2011, the Department sent Claimant a Notice of Noncompliance concerning her failure to participate in required employment-related activities and scheduled a meeting between the Department and Claimant on August 11, 2011, to discuss the noncompliance and whether Claimant had good cause for the noncompliance. BEM 233A.

Claimant, who attended the meeting, contended that she was entitled to a deferral from participation in employment-related activities because she was disabled. Once a client claims a disability, she must, upon request, provide the Department with verification of the disability, which must indicate that the disability will last longer than 90 calendar days. BEM 230A. The Department agreed to allow Claimant to submit a medical needs form completed by her doctor in order to begin properly processing her deferral. The form was due by August 22, 2011. The Department also scheduled Claimant to attend a WorkFirst orientation on August 29, 2011, in the event Claimant failed to submit the medical needs form.

The Department testified that Claimant did not submit the medical needs form and did not attend the WorkFirst orientation. Claimant contended that she did submit the required documentation, testifying that, prior to the August 22, 2011, due date, she turned the completed medical needs form in to the Department drop box and signed the sign-in log. However, the Department testified that it did not have the completed form in its file. During the hearing, the Department also reviewed the sign-in log for the drop box for the period from August 11, 2011, when Claimant was provided with the medical needs form, and August 22, 2011, the due date for the completed form, and did not find any signature by Claimant during that period to support her claim that she had turned in the document. Under BEM 230A, if the verification is not returned, a disability is not established, and the client will be required to fully participate in the work participation program as a mandatory participant. If the client does not provide the requested verifications and does not attend the work participation program, the case should be placed into closure. BEM 230A. Because Claimant did not turn in the medical needs form and she did not attend the WorkFirst orientation, the Department acted in accordance with Department policy when it closed Claimant's FIP case effective October 1, 2011, on the basis that Claimant had failed, without good cause, to comply with employment-related activities.

Denial of FIP Application

At the hearing, Claimant also contended that the Department had improperly denied her November 2, 2011, FIP application. However, the Department denied the application because Claimant's FIP case was subject to a three-month sanction. When an individual's FIP case closes following the individual's first noncompliance with work-related activities without good cause, the individual is penalized with the closure of her

FIP case for not less than three months. BEM 233A. The sanction period begins with the first pay period of a month. BEM 233A.

In this case, the Department notified Claimant in a September 1, 2011, Notice of Case Action, that her FIP case would close effective October 1, 2011. Claimant confirmed that she received FIP benefits through September 2011. Thus, Claimant's three-month sanction period ran from October 1, 2011, through December 31, 2011. Accordingly, the Department acted in accordance with Department policy when it denied Claimant's November 2, 2011, FIP application on the basis that Claimant was sanctioned at the time from having an open FIP case.

Reduction of FAP Benefits

As a result of the FIP sanction, Claimant was disqualified from her FAP group for a minimum of one month, resulting in a decrease in FAP benefits until she reestablishes FAP eligibility as required under BEM 233B. See BEM 229; BEM 233B. Because the Department properly closed Claimant's FIP case, it acted in accordance with Department policy when it reduced her FAP benefits by designating her as a disqualified adult. BEM 233B.


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 closed Claimant's FIP case effective October 1, 2011; properly denied her November 2, 2011, FIP application; and properly reduced her FAP benefits effective October 1, 2011.

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 above and on the record.

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


Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: January 6, 2012

Date Mailed: January 6, 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

ACE/ctl

cc: [REDACTED]
Wayne County DHS (49)

File