

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-35334
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: May 21, 2012
County: Wayne (82-19)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

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 May 21, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

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 March 1, 2012, the Department
 denied Claimant's application closed Claimant's case
due to a determination that Claimant was noncompliant with the ██████████ program
for the second time.
3. On February 10, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On February 17, 2012, 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, this case arises out of a hearing request made on February 17, 2012, in which Claimant disputes the termination of FIP benefits effective March 1, 2012. In fact, the alleged noncompliance occurred much earlier, on February 17, 2011.

The history of the case is that on March 30, 2011, the Department issued a Notice of Case Action about this exact issue. Claimant filed a hearing request and an administrative hearing on this issue was scheduled for May 21, 2011. Claimant failed to appear for the May 21, 2011, hearing and the case was dismissed.

Also, the Department admitted that after the case was dismissed in 2011, it failed to close Claimant's FIP benefits and failed to impose a penalty. Instead, the Department continued Claimant's FIP benefits and did not penalize her. Then, in 2012 when the error was discovered, the Department issued a second Notice of Case Action dated February 10, 2012. The 2012 Notice of Case Action is the subject of the dispute in the present case.

Based on the previous history of this case, it is found and concluded that Claimant's opportunity to challenge the Department's termination of her FIP benefits occurred on May 21, 2011, the original hearing date, and Claimant's right to challenge the termination expired when she failed to appear at the 2011 hearing. The question of whether the Department terminated her benefits correctly is *res judicata*, i.e., already decided, and Claimant has no right to reopen it now.

However, the affirmance of terminating Claimant's benefits is not the only issue in this case, and that ruling does not completely resolve the matter. In addition to terminating FIP benefits, the 2012 Notice of Case Action imposes a three-month penalty on Claimant for noncompliance for a second-time offense. This administrative hearing decision must address whether the proof the Department has submitted is sufficient to establish that the penalty is in accordance with Department policy and procedure.

BEM 233A, "Failure to Meet Employment and/or Self-Sufficiency-Related Requirements: FIP," contains a penalty section listing penalties for first, second and third noncompliance offenses. It is clear that the Department does have the authority to impose penalties when they are appropriate, and that there are to be different penalties for additional violations. BEM 233A, p. 6.

At the hearing, the Department presented no evidence to support its contention that Claimant committed a first or second noncompliance. The Department failed to present

the history of the case and documents to verify the first and second noncompliance violations. Therefore, it is impossible for the undersigned to determine if the Department meted out the correct penalty in this case. The Department is reversed as to its imposition of a penalty for a second noncompliance violation.

In conclusion, based on 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 benefits and improperly penalized Claimant for noncompliance with the FIP Work First requirements.

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 in terminating Claimant's FIP benefits and did not act properly in imposing a second-violation penalty on Claimant.

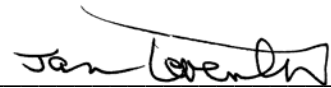
Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is

AFFIRMED as to the termination of FIP benefits, and

REVERSED as to the imposition of a second-time penalty on Claimant for the reasons stated herein 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:

1. Initiate procedures to rescind and delete all penalties imposed on Claimant for an alleged second-time violation of the [REDACTED] requirements of the FIP program.
2. All steps shall be taken in accordance with Department policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 29, 2012

Date Mailed: May 29, 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

JL/pf

cc:

