

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-41995
Issue Nos.: 1038, 2006, 3029
Case No.: [REDACTED]
Hearing Date: April 25, 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 April 25, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Due to excess income, did the Department properly close Claimant's Family Independence Program (FIP) and Medical Assistance (MA) cases and reduce Claimant's Food Assistance Program (FAP) benefits?

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 received benefits for FIP, MA and FAP.
2. On April 1, 2012, the Department closed Claimant's FIP and MA cases and reduced Claimant's FAP benefits due to alleged failure to comply with the requirements of the Work First program.

3. On March 15, 2012 and March 28, 2012, the Department sent Claimant notice of the closure of FIP and reduction of FAP. No Notice of Case Action was sent with regard to the MA program closure.
4. On March 26, 2012, Claimant filed a hearing request, protesting the closure of the FIP and MA cases and the reduction of 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 Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department (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, BEM 233A, "Failure to Meet Employment and/or Self-sufficiency-related Requirements: FIP," and BEM 233B, "Failure to Meet Employment Requirements: FAP," require the Department to issue a Notice of Noncompliance when there is a failure to cooperate with the Jobs, Education and Training (JET) program. BEM 233A requires a statement of the alleged date of noncompliance in the Notice of Noncompliance, and this a FAP requirement in BEM 233B as well. BEM 233A, pp. 8-9; BEM 233B, p. 1.

The notice requirement ensures that the customer will, at a minimum, know when the alleged violation occurred. The purpose of the notice process is to create a fair system where accusations of noncompliance are specified and are made known to the person who is accused.

In this case, the Department failed to establish that the alleged dated of noncompliance, which is February 17, 2012, is a valid date when Claimant was required to do something and did not do it. In fact, the Department's evidence shows that (1) on February 10, 2012, the Department sent Claimant a letter asking her to contact them by February 15, 2012; (2) she was never asked to do anything on or by February 17, 2012; (3) the casenotes of the [REDACTED] agency specifically state that the requirement was February 17; (4) another [REDACTED] casenote also specifically states that Claimant failed to fulfill a requirement on the 17th, not the 15th.

In addition, the Department's testimony lacked credibility because it was only when the Claimant produced the February 10, 2012, letter that it was made clear that the [REDACTED] casenotes were erroneous. It is found and determined, therefore, that the Department should be reversed as it did not provide Claimant with the required notice of the date of noncompliance.

It should also be noted that the Notice of Noncompliance was not issued in a timely manner. BEM 233B requires the Notice to be issued within five days of the alleged noncompliance date. In this case, the noncompliance date is February 17, 2012, but the Notice of Noncompliance is dated March 2, 2012, more than five days after the date of noncompliance. This requirement clearly relates to the customer's ability to present evidence regarding the events of the alleged date of noncompliance. Without such notice requirements, the customer would be at a disadvantage in presenting records, testimony, witnesses, etc.

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, due to excess income, the Department properly improperly

- denied Claimant's application
- reduced Claimant's FAP benefits
- closed Claimant's FIP and MA cases.

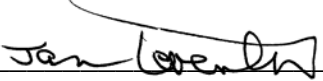
DECISION AND ORDER

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. Reinstate Claimant's FIP benefits at the benefit level to which she is entitled;
2. Reinstate Claimant's MA benefits at the benefit level to which she is entitled;
3. Initiate procedures to restore Claimant's FAP benefits to the benefit level to which she is entitled.
4. Initiate procedures to pay supplemental retroactive and ongoing FIP, FAP and MA benefits to Claimant;
5. Initiate procedures to delete all penalties imposed upon Claimant in the FIP, FAP and MA programs.
6. 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: April 26, 2012

Date Mailed: April 26, 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:

