

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-42002
Issue Nos.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: October 15, 2012
County: Tuscola

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, an in-person hearing was held on October 15, 2012, in Caro, MI. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED]

ISSUES

Whether the Department properly sanctioned Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) cases for failure to comply with Work-First?

FINDINGS OF FACT

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

1. On February 16, 2012, the Department sent Claimant and his spouse work participation program appointment notices. Both Claimant and his spouse were to report to the program on February 28, 2012, at 8:15 am.
2. On February 29, 2012, the Department issued a notice of noncompliance for failure to attend the scheduled work participation program appointment.
3. On March 8, 2012, a TRIAGE meeting was scheduled to occur. Claimant failed to appear.

4. On March 13, 2012, the Department issued a sanction on Claimant's FIP and FAP case.
5. On March 20, 2012, Claimant requested a 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.

In the instant case, Claimant and his spouse were both sent notices to attend work participation. Claimant and his spouse failed to appear for the scheduled orientation. The Department sent a notice of non compliance with an appointment for both Claimant and his spouse to allow them an opportunity to provide a reason for failing to attend work participation as scheduled. Claimant and/or his spouse failed to appear for the scheduled appointment. The Department testified they determined no good cause based upon a review of the file and information they had to consider. The Department initiated a sanction on Claimant's FIP and FAP case for failure to comply with work participation.

Claimant indicated he had reasons for not attending the work participation appointment set by the Department. Claimant acknowledged receipt of the appointment notices but failed to attend the appointment. Claimant expressed concern about returning to the work participation provider since he had a previous issue with the provider resulting in the filing of a grievance against them and him being removed from the program. Claimant testified he was fearful of being arrested if he showed up for the appointment as requested by the Department. He testified he had nothing from the Department or the work participation provider to indicate he was now welcome to step foot on their property. Due to these concerns he stated he did not attend the appointment. Claimant testified he contacted the Department upon receipt of the work participation appointment and indicated his concern regarding his ability to attend the work participation appointment. Claimant indicated he was told to attend but he wanted something in writing from the provider acknowledging he was allowed to attend the program. Claimant testified the Department had indicated they had discussed the matter with the work participation provider and had approval for him to attend. Claimant testified he didn't trust the Department and was still concerned about being arrested.

Claimant further expressed a concern that he had previously attended the work participation program and did not feel he should have to repeat the orientation portion of the program since he had already completed this portion before. The Department representative testified the policy for sending a client to the work participation program necessitated the completion of the orientation at referral.

Claimant testified his wife failed to attend the work participation appointment due to a medical condition. Claimant testified his spouse had previously been granted a deferment from work participation. The Department, however, indicated Claimant's spouse was sent an appointment notice to attend work participation because she no longer had a deferment.

The Department raised the concern that Claimant was given an appointment to meet with the Department on March 8, 2012, and participate in a TRIAGE meeting regarding Claimant's failure to attend the work participation appointment. The Department notice indicated this would be the opportunity to report and verify the reasons for failing to attend the work participation appointment. When questioned as to why he failed to participate with the TRIAGE, Claimant had no reason for not attending then quickly added he likely didn't have gas money or one of his kids may have been sick. Claimant

testified he believed he spoke to the Department on the day of the TRIAGE after 9:00 a.m. regarding the TRIAGE. He testified he told the Department to forget it and he did not want to deal with it. The testimony provided by Claimant fails to demonstrate a phone call prior to the day of the TRIAGE requesting the TRIAGE be rescheduled or indicating a reason for not being able to attend. Claimant at hearing stated he was likely unable to attend in person due a lack of gas funds and unable to participate by phone due to a lack of minutes on his phone. Yet, Claimant was able, according to his own testimony, to place a call on the day of the TRIAGE but not at the time the TRIAGE was scheduled.

As a result of Claimant not appearing for his TRIAGE appointment, the Department testified they completed a good cause determination. The Department testified they discussed and reviewed Claimant's case and determined from the records present that Claimant and his spouse failed to have good cause for missing the work participation appointments. This Administrative Law Judge finds the testimony provided to be credible given the details provided by the Department witness regarding meeting and discussing the case.

The relevant policy regarding TRIAGE can be found in BEM 230A, pp. 7-8. This policy states, in part, the following:

TRIAGE

Work participation program participants will not be terminated from the work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Locally coordinate a process to notify the work participation program case manager of triage meetings, including scheduling guidelines.

Do not schedule a triage for instances of noncompliance while the FIP application is pending.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. If the client requests to have an in-person triage, reschedule for one additional triage appointment. Clients must comply with triage requirements within the negative action period.

Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or the work participation program. **Good cause must be considered even if the client does not**

attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation.

After reviewing the record and the evidence presented, this Administrative Law Judge finds the Department properly sent a notice of work participation to both Claimant and his spouse. Claimant and his spouse did, in fact, fail to attend the work participation appointment scheduled for them. Claimant and his spouse were sent an appointment notice regarding their alleged non compliance with work participation. Claimant and/or his spouse failed to attend the appointment scheduled for TRIAGE. Claimant was given proper notification of the appointment and failed to attend. Claimant was able to place a call to the Department on the day of the TRIAGE but not at the time set for the TRIAGE according to his own testimony.

Claimant was provided an opportunity to provide a good cause reason for missing a work participation appointment. Claimant's failure to attend or participate in a TRIAGE does not open the door for him to later raise those good cause reasons at a subsequent hearing. This Administrative Law Judge is unable to consider good cause rationale not previously presented to the Department at the time they made their determination. Therefore, the Department properly found no good cause for Claimant's and his spouse's missed work participation appointments based upon the information they had at the time of the TRIAGE. The Department properly sanctioned both Claimant's FIP and FAP benefits accordingly.

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.

Accordingly, the Department's decision is AFFIRMED.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 17, 2012

Date Mailed: October 17, 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

JWO/pf

cc:

