

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2012-67905
Issue No.: 1021
Case No.: [REDACTED]
Hearing Date: October 8, 2012
County Wayne (49)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Monday, October 8, 2012. The Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED]

ISSUE

Whether the Department properly denied the Claimant's application for cash assistance ("FIP")?

FINDINGS OF FACT

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

1. The Claimant was an ongoing FAP recipient.
2. In June 2012, the Claimant submitted an application for public assistance seeking FIP benefits.
3. On June 20, 2012, the Department sent a Work Participation Program Appointment Notice ("Notice") to the Claimant, correctly addressed, instructing her to appear for the work participation program on July 2, 2012. (Exhibit 1)

4. The Notice also stated that if the Claimant was unable to attend the July 2nd appointment, that she had 20 days from the date of the Notice (June 20th) to reschedule the appointment, otherwise her FIP application would be denied. (Exhibit 1)
5. The Claimant did not attend the work participation as required. (Exhibit 2)
6. On July 11, 2012, the Department sent a Notice of Case Action to the Claimant informing her that her FIP application was denied based on the failure to submit requested verifications. (Exhibits 5, 6)
7. On July 12, 2012, an interoffice email communication indicates that the Claimant was calling concerned that she was supposed to report for job participation but she was not on the MIS system. (Exhibit 4)
8. On July 23, 2012, the Department received the Claimant's written request for hearing. (Exhibit 7)

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("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, Rules 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 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, Rules 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 of Human Services 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 Mich Admin Code, Rules 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, Rules 400.5001 through R 400.5015.

The Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A (2012), p. 1. All Work Eligible Individuals (“WEI”), and non-WEIs, are required to work or engage in employment and/or self-sufficiency-related activities. BEM 233A, p. 1. Non-compliance by a WEI while an application is pending results in group ineligibility. BEM 233A, p. 5. Failure to participate in employment or self-sufficiency-related activities without good cause is penalized. BEM 233A, pp. 1, 6. Penalties include a delay in eligibility at application, ineligibility, or case closure for a minimum of 3 months for the first episode of non-compliance, 6 months for the second occurrence, and a lifetime closure for the third episode of non-compliance. BEM 233A, pp. 1, 6. Good cause is a valid reason for non-compliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. BEM 233A, p. 3.

A Notice of Case Action must specify the action(s) taken by the Department; the reason(s) for the action; the specific manual item which cites the legal basis for an action or the regulation or law itself; an explanation of the right to request a hearing; and the conditions under which benefits continue if a hearing is requested. BAM 220 (2012), pp. 1, 2.

In this case, the Claimant was previously terminated from cash assistance for having reached the term limits. Subsequently, the Department sent a letter to the Claimant instructing her to reapply for FIP benefits. In June 2012, the Claimant re-applied. The Department registered the June application for a start date of March 16th. During the hearing, the Department asserted that the Claimant’s FIP application was denied based on the failure to participate in the work-related activities. The evidence confirms that the Department sent the Claimant an appointment notice (which the Claimant denied receipt) and that the Claimant did not attend. An email communication (Exhibit 4) indicates that the Claimant was calling the Department stating she was supposed to attend Work First; however, she was unable to because she was not in the MIS system.

On July 11, 2012, the Department denied FIP benefits for two reasons; first, no group member was an eligible child, and second, the failure to provide requested information/verifications. Cited manual items were BEM 110, 125, 126, 210 and BAM

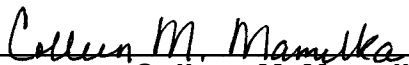
130, ERM 103. Pursuant to BAM 220, the Department was required to provide the reason(s) for the denial and also cite to the specific manual items that were relied on in making this determination. This was not done. The Department testified the denial was based on the failure to participate with Work First, yet the reasons provided on the Notice of Case Action did not reflect this. The Notice of Case Action was defective. In light of the foregoing, the Department's action can not be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department failed to establish it acted in accordance with policy when it notified the Claimant of the denial of her FIP application.

Accordingly, it is ORDERED:

1. The Department's determination is not upheld.
2. The Department shall re-register and initiate processing of the Claimant's FIP application in accordance with Department policy.


Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 12, 2012

Date Mailed: October 12, 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

Re consideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

CMM/cl

cc:

[REDACTED]

Wayne County DHS (49)/1843

[REDACTED]

C. Mamelka