

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201263712
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: October 4, 2012
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 October 4, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Specialist, and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly close Claimant's case for Family Independence Program (FIP) benefits for failure to comply with employment-related activities without good cause?

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).
<input type="checkbox"/> Direct Support Services (DSS).	

2. On June 1, 2012, the Department denied Claimant's application closed Claimant's FIP case due to failure to comply with employment-related activities.

3. On May 1, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On July 6, 2012, Claimant filed a hearing request concerning her FIP 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.

Direct Support Services (DSS) is administered by the Department pursuant to MCL 400.57a, et. seq., and Mich Admin Code R 400.3603.

Additionally, the Department closed Claimant's FIP case effective June 1, 2012 for 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 (December 1, 2011), p 1; BEM 233A (March 1, 2012), p 1. Failing or refusing to comply with assigned activities or participate in employment and/or self-sufficiency-related activities without good cause constitutes a noncompliance with JET required activities justifying closure of a client's FIP case. BEM 233A, pp 1-2.

In this case, the Department testified that Claimant had failed to attend a JET orientation on March 15, 2012, and participated in a triage on April 17, 2012, in connection with this nonattendance. At the April 17, 2012 triage, the Department found that Claimant had good cause for her noncompliance based on lack of transportation and sent her to a JET orientation on April 23, 2012. When a client is determined during a triage to have good cause and the good cause issues have been resolved, the Department sends the client back to the work participation program, and there is no need for a new work participation program referral. BEM 233A, pp 4, 10.

When Claimant did not attend the April 23, 2012 JET orientation, the Department sent Claimant a May 1, 2012 Notice of Case Action informing her of the closure of her FIP case effective June 1, 2012, for a minimum six-month period based on her noncompliance with employment-related activities without good cause.

Claimant contends that she had good cause for her nonattendance because she had gone to the emergency room the prior day and did not leave until late that night. However, Claimant did not have the opportunity to present her good cause explanation at a triage. At the hearing, the Department explained that Claimant was not provided with a triage in connection with her failure to attend the April 23, 2012 JET orientation because she had already had a triage on April 17, 2012, and the result of that triage was her agreement to attend the April 23, 2012 JET orientation. Clients must comply with triage requirements within the negative action period. BEM 233A, p 7. However, JET participants will not be terminated from a JET program and may not have their FIP cases closed without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p 7.

In this case, the noncompliance that resulted in closure of Claimant's case was her failure to attend the April 23, 2012 JET orientation. Because the Department concluded

at the April 17, 2012 triage that Claimant had good cause her nonattendance of the April 2, 2012 JET orientation, Claimant's failure to attend the April 23, 2012 was independent of the April 2, 2012 nonattendance and subsequent April 17, 2012 triage to address that incident. By failing to schedule a triage to discuss noncompliance and good cause concerning Claimant's failure to attend the April 23, 2012 JET orientation, the Department did not act in accordance with Department policy.

An issue was also raised at the hearing concerning Claimant's FIP sanctions. The May 1, 2012 Notice of Case Action showed that the sanction imposed to Claimant's case was the closure of her FIP case for a six month minimum period of time, which is the sanction applicable for a second occurrence of noncompliance. BEM 233A, p 6. However, at the hearing, the Department was unable to establish any prior occurrences of noncompliance by Claimant, and Claimant denied that she had been subject to a prior FIP sanction. The Department speculated that a FIP sanction had erroneously been entered in its system following the April 17, 2012 triage. Because Claimant had good cause for her April 2, 2012 noncompliance, any sanction the Department imposed on Claimant's FIP case in connection with her failure to participate in the April 2, 2012 JET orientation was erroneous.

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 denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA CDC DSS.

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 DSS 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. Remove any FIP sanctions imposed between April 2012 and June 2012 relating to the April 2, 2012 and April 23, 2012 alleged employment-related noncompliances from Claimant's record;
2. Reinstate Claimant's FIP case as of June 1, 2012;
3. Issue supplements to Claimant for any FIP benefits Claimant was eligible to receive but did not from June 1, 2012, ongoing; and

4. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: 10/12/2012

Date Mailed: 10/12/2012

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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:

