

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

IN THE MATTER OF:



Reg. No.: 201265619
Issue No.: 1038; 3029
Case No.: [REDACTED]
Hearing Date: October 10, 2012
County: Wayne (41)

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 10, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], JET Case Worker.

ISSUE

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

Did the Department properly reduce Claimant's Food Assistance Program (FAP) 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 checked="" 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 August 1, 2012, the Department closed Claimant's FIP case and reduced her FAP benefits due to failure to comply with employment-related activities without good cause.
3. On July 12, 2012, the Department sent Claimant notice of its actions.
4. On July 18, 2012, Claimant filed a hearing request, protesting the Department's actions.

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, on July 12, 2012, the Department sent Claimant a Notice of Case Action advising her that, effective August 1, 2012, her FIP case would close and be sanctioned for a minimum three-month period and her FAP benefits would be reduced based on her noncompliance with employment-related activities without good cause.

Closure of FIP Case

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 (May 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 sent Claimant Work Participation Program Appointment Notices on various dates scheduling her to attend the JET program. When Claimant failed to attend these scheduled dates, the Department sent her a June 20, 2012 Notice of Noncompliance scheduling a triage on June 25, 2012. Claimant attended the triage, but the Department concluded that she had no good cause for her noncompliance.

At the hearing, Claimant admitted she did not attend the JET program on the dates listed on the Notice of Noncompliance. Therefore, she did not comply with her JET activities. However, good cause is a valid reason for noncompliance. BEM 233A, p 3. Good cause is based on factors which are beyond the control of the noncompliant person. BEM 233A, pp 3, 5. Good cause must be based on the best information available during the triage and prior to the negative action date and may be verified by information already on file with the Department or the work participation program. BEM 233A, p 8.

In this case, Claimant alleged that she had been injured in a September 13, 2011, bus accident and was unable to work because of the resulting injuries from this accident. She brought a note from her doctor dated June 8, 2012 to the triage. The note stated that Claimant had been unable to work since September 13, 2011, because of a disability and indicated that her ability to return to work would be determined at her July 6, 2012, appointment.

Once a client claims a disability, she must provide the Department with verification of the disability when reported. BEM 230A, p 10. In this case, once Claimant alleged a

disability at the triage, the Department provided her with a Medical Needs-JET form (DHS 54-E), as well as other medical forms needed to define the disability. See BEM 230A, pp 10, 11. Claimant returned the DHS-54 shortly after the triage date, as well as the other documents by July 7, 2012. The Department testified that, because the form did not indicate the length of the disability, it was not acceptable and failed to establish Claimant's good cause for noncompliance. However, a review of the form shows that while the doctor failed to mark how long Claimant would be unable to work, just below those boxes, where the doctor was asked to check whether a physical limitation would be expected to last more than 90 days, the doctor had checked off "yes." Read as a whole, the form sufficiently advised the Department that Claimant's doctor verified a disability exceeding 90 days. Therefore, the Department should have referred Claimant's medical documentation to the Medical Review Team (MRT) for determination of disability and deferred her participation from the JET program pending MRT's decision. See BEM 230A, pp 10-11. In failing to do so and closing Claimant's FIP case, the Department did not act in accordance with Department policy.

Reduction in FAP Benefits

Because Claimant's FIP case was improperly closed, Claimant was improperly designated an disqualified member of her FAP group. BEM 230A, p 1; BEM 233B (December 1, 2011), p 5; BEM 212 (April 1, 2012), p 7. Therefore, the Department did not act in accordance with Department policy when it reduced her FAP benefits for noncompliance with employment-related activities without good cause.

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 improperly closed Claimant's FIP case and improperly reduced her FAP benefits.

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 above 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. Reinstate Claimant's FIP case as of August 1, 2012;
2. Remove the FIP sanction entered on or about August 1, 2012, from Claimant's record;
3. Begin recalculating Claimant's FAP benefits from August 1, 2012, ongoing, in accordance with Department policy to include Claimant as a qualified FAP group member;

4. Issue supplements for any FIP and/or FAP benefits Claimant was eligible to receive but did not from August 1, 2012, ongoing; and
5. 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: 10/19/2012

Date Mailed: 10/19/2012

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:

