

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

IN THE MATTER OF:



Reg. No.: 201270750
Issue No.: 1038; 1022; 2015; 3014
Case No.: [REDACTED]
Hearing Date: October 15, 2012
County: Wayne (19)

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 15, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], JET Case Manager.

ISSUE

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

Did the Department fail to add Claimant's daughter to her FIP, Medical Assistance (MA), and Food Assistance Program (FAP) groups?

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:
 - Family Independence Program (FIP). Adult Medical Assistance (AMP).
 - Food Assistance Program (FAP). State Disability Assistance (SDA).
 - Medical Assistance (MA). Child Development and Care (CDC).
 - Direct Support Services (DSS).

2. On August 1, 2012, the Department denied Claimant's application closed Claimant's case due to failure to participate in employment-related activities without good cause.

3. Claimant notified the Department that on April 26, 2012, her daughter had moved back to her home.
4. The Department did not add Claimant's daughter to her FIP, FAP and MA cases.
5. On June 19, 2012, the Department sent Claimant notice of the FIP closure.
6. On August 21, 2012, Claimant filed a hearing request, protesting the closure of the FIP case and the Department's failure to add her daughter to her cases.

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 AACR, 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, in her hearing request, Claimant raised two concerns: (i) the Department's closure of her FIP case and (ii) the Department's failure to add her daughter to her FIP, Food Assistance Program (FAP), and Medical Assistance (MA) cases.

Closure of FIP Case

The Department sent Claimant a June 19, 2012 Notice of Case Action notifying her that her FIP case would close effective August 1, 2012, because she had failed to participate in employment-related activities without good cause. Claimant's FAP case was not affected by the closure of her 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. 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 (May 1, 2012), p 7.

In this case, the Department sent Claimant a Work Participation Program Appointment Notice dated April 2, 2012, requiring her to attend a JET orientation on April 18, 2012. Claimant did not attend the orientation. The Department then sent her a June 7, 2012 Notice of Noncompliance notifying her of her noncompliance and scheduling a triage on June 19, 2012. Claimant did not attend the triage, and the Department concluded, based on the information available to it, that Claimant did not have good cause for her noncompliance. The Department subsequently closed Claimant's FIP case for failure to comply with employment-related activities without good cause.

At the hearing, Claimant acknowledged that she did not attend the JET orientation or the triage but explained that she had not received either of the Notices sent by the Department to her. Claimant explained that she had lived on [REDACTED], in her mother's townhouse, until January 23, 2012, when she moved to an apartment on [REDACTED]. She moved back to [REDACTED] on April 16, 2012. The April 2, 2012, Appointment Notice was sent to Claimant at the [REDACTED] address, even though Claimant testified that she had not moved back there until April 16, 2012. Claimant also testified that she did not receive the June 7, 2012 Notice of Noncompliance and the

June 19, 2012 Notice of Case Action, which were sent to her at the Memorial address because she was living at Pond Way at the time.

A client is required to report changes in address within 10 days of the change. BAM 105 (September 1, 2012), p 7. Changes can be reported in person, by mail or by telephone. BAM 105, p 8. At the hearing, Claimant credibly testified that she informed the Department by phone of her January 23, 2012, move to [REDACTED] and her April 16, 2012, move to [REDACTED] in a timely manner. Because the Department sent the Appointment Notice and the Notice of Noncompliance scheduling the triage to Claimant to addresses where she was not residing at the time the notices were sent and Claimant had timely reported her change of address, Claimant established that she did not receive the notices sent to her. Thus, the Department did not act in accordance with Department policy when it concluded that Claimant did not have good cause for her noncompliance and closed her FIP case.

Failure to Add Daughter to Cases

Claimant was also concerned because the Department had failed to add her daughter to her FIP, FAP and MA groups. A client is required to report changes in persons in the home within ten days of the change. BAM 105, p 7. Changes may be reported in person, by mail or by telephone. BAM 105, p 8. FIP, MA and FAP groups must include a dependent child who lives with the legal parent. See BEM 210 (October 1, 2011), p 1; BEM 211 (October 1, 2012), pp 1-2; and BEM 212 (April 1, 2012), p 1. Claimant credibly testified that her daughter had been in her mother's temporary custody but was returned to her care on [REDACTED]. Claimant further credibly testified that she called the Department to add her child to her cases shortly after the child moved back in with her, but the Department failed to process her request. By failing to do so, the Department failed to act in accordance with Department policy.

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 failed to add her child to her FIP, FAP and MA groups.

DECISION AND ORDER

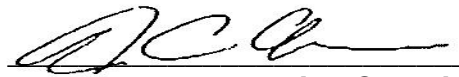
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department
 did act properly. did not act properly.

Accordingly, the Department's 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. Remove the FIP sanction imposed on or about August 1, 2012 from Claimant's record;

2. Reinstate Claimant's FIP case as of August 1, 2012;
3. Begin processing the addition of Claimant's daughter to her FIP, FAP and MA cases as of April 26, 2012, in accordance with Department policy;
4. Recalculate Claimant's FIP and FAP budgets as of April 26, 2012, ongoing, to include Claimant's daughter in her groups in accordance with Department policy;
5. Issue supplements for any FIP and FAP benefits Claimant was otherwise eligible to receive but did not from April 26, 2012, ongoing;
6. Provide any MA coverage Claimant's daughter is eligible to receive from April 26, 2012, ongoing; and
7. 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: 10/24/2012

Date Mailed: 10/24/2012

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/

cc:

