

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20127152
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: December 12, 2011
County: Wayne County DHS (41)

ADMINISTRATIVE LAW JUDGE: Andrea J. Bradley

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 December 12, 2011, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], JET Case Manager.

ISSUE

Did the Department properly deny Claimant's application close Claimant's case 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)? |

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). |

2. On September 1, 2011, the Department
 denied Claimant's application closed Claimant's case
due to failure to attend the Jobs, Education, and Training (JEt) program without good
cause for failing to attend.
3. On August 4, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On August 16, 2011, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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, Rule 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, Rule 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, Rule 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, Rule 400.5001 through Rule 400.5015.

Additionally, the Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A. All Work Eligible Individuals (“WEI”) are required to participate in the development of a Family Self-Sufficiency Plan (“FSSP”) unless good cause exists. BEM 228. As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. BEM 233A. The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program (JET) or other employment service provider. BEM 233A. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. BEM 233A. Failure to comply without good cause results in FIP closure. BEM 233A. The first and second occurrences of non-compliance results in a 3 month FIP closure. BEM 233A. The third occurrence results in a 12 month sanction.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A. Additionally, a triage must be held within the negative action period. BEM 233A. A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A. The Department is required to make a determination as to whether Claimant had good cause for her noncompliance with the JET program based on the best information available to it. BEM 233A. 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. BEM 233A.

In this case, the testimony and evidence reveal that a triage was conducted and the Claimant and her daughter appeared to present their good cause for noncompliance. The Claimant testified that during the triage the Department stated it would send the Claimant's daughter a letter to return to the JET program. There was no documentary evidence to support this testimony. To the contrary, the notes from the triage reflect that an outcome would be determined when the Department worker returned the next day. The Department was unable to offer first-hand testimony as to what occurred at the triage and relied on the case notes. The case notes presented by the Department stated that the no good cause determination was made the day after the triage by a Department worker that did not attend the triage the day before. The Department testified that the information presented at the triage was communicated to the absent

Department worker in order to allow her to make the determination. Accordingly, Claimant was granted an opportunity at the hearing to present evidence of good cause for failing to participate in her JET obligations but limited to the evidence she had previously provided to her JET worker, and which was available to the Department at the time the triage was scheduled.

It should be noted that the noncompliance in this case was based on the failure of Claimant's daughter to attend the JET program. The Claimant's daughter was not present for the hearing and therefore, there was no first-hand testimony as to the good cause for failure to attend the JET program. The Claimant testified that her daughter suffers from physiological issues and it has resulted in her having a behavior problem. The Claimant further testified that her daughter had been institutionalized in the past. There was no medical documentation to support the testimony and the Claimant admitted that her daughter was not institutionalized during the time the Department considered her non-compliant with JET program activities. In sum, the Claimant failed to present sufficient evidence of good cause for her daughter having failed to attend the JET program.


Failure to comply without good cause results in FIP closure. BEM 233A. The first and second occurrences of noncompliance result in a three-month FIP closure. BEM 233A. The third occurrence results in a twelve-month sanction. BEM 233A. The goal of The FIP penalty policy is to bring the client into compliance. BEM 233A. Because the current occurrence of noncompliance was Claimant's second, the Department properly closed her FIP case for three months.

Accordingly, the action taken by the Department is AFFIRMED.

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 decision is AFFIRMED REVERSED for the reasons stated on the record.



Andrea J. Bradley
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/22/11

Date Mailed: 12/22/11

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

AJB/hw

cc:

