


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

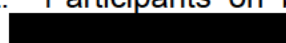
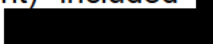
IN THE MATTER OF:



Reg. No.: 201277632
Issue No.: 1038
Case No.: 
Hearing Date: October 17, 2012
County: Wayne (15)

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 17, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included , Family Independence Specialist/JET Specialist, and , JET Coordinator.

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

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 August 7, 2012, the Department
 denied Claimant's application closed Claimant's case
due to failure to attend and participate in the Jobs, Education and Training (JET)
program prior to her case opening .
3. On August 7, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On August 6, 2012, 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, 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, in an August 8, 2012 Notice of Case Action, the Department denied Claimant's FIP application dated February 29, 2012, because Claimant had failed to attend the Jobs, Education and Training (JET) program and remain in compliance with JET activities before the opening 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 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 (December 1, 2011), p 1. Work participation program engagement is a condition of FIP eligibility, and while the FIP application is pending, clients must engage in and comply with all work participation program assignments. BEM 229 (December 1, 2011), pp 3, 5. If an applicant fails or refuses to appear and participate with the JET program or other employment service provider without good cause while the FIP application is pending, the applicant is noncompliant and the Department will deny the application. BEM 229, p 5; BEM 233A, pp 1-2, 5. A good cause hearing is not required for applicants who are non-compliant prior to the FIP case opening. BEM 233A, p 7.

In this case, the Department sent Claimant a Work Participation Appointment Notice on July 14, 2012, requiring her to attend a July 31, 2012 JET orientation. Claimant credibly testified that she attended the orientation and handed the JET worker the medical paperwork she had previously provided to the Department stating she had a high-risk pregnancy. Although she advised the JET worker that she was willing to stay at the orientation the entire day, the JET district manager and supervisor sent her home after emailing the Department worker to explain that Claimant was being dismissed because of her pregnancy-related complications. At the hearing, the Department worker could not verify that she received an email but conceded that it was possible that she did receive it. Under these facts, the Department failed to establish that Claimant failed or refused to appear and participate in the work participation program. Thus, the Department did not act in accordance with Department policy when it denied Claimant's FIP application based on noncompliance.

Furthermore, a WEI who is unable to participate in employment activities because of pregnancy-related issues is temporarily deferred from participation in the JET program. BEM 230A, pp 7-8. Clients requesting a deferral from the work participation program

due to pregnancy-related complications must provide verification of inability to participate through a note from the client's doctor, a DHS-49, a DHS-54A, or a DHS-54E. BEM 230A, pp 8, 20.

In this case, Claimant initially submitted a note dated May 2, 2012 with [REDACTED] letterhead to establish that she was unable to work because of pregnancy-related complications. When the Department advised her that the note was not sufficient, Claimant credibly testified that she went back to her doctor on June 13, 2012, and had him fill out a Medical Examination Report (DHS-49). The doctor did not complete any of the second page of the form, but indicated on the first page that Claimant had a high-risk pregnancy, was bipolar, and suffered from COPD. The doctor signed and dated the first page of the form and the name and address of the doctor's practice was stamped on the front page. The Department acknowledged that it received the form on June 14, 2012, but concluded that it was insufficient.

A review of the DHS-49 provided by Claimant to the Department shows that although the doctor did not complete the second page of the form, the information required on the second page (comments to examination areas and lab and x-ray results) was not relevant to the pregnancy-related complications at issue in Claimant's case. The doctor's writing on the first page that Claimant had a "high risk pregnancy" and explaining that the reason was "bipolar" and "COPD" indicated that Claimant had pregnancy-related complications. Although the doctor did not sign and date on the indicated boxes on the second page of the form, he did sign and date the bottom of the first page and he had the name and address of his practice stamped near his signature. Based on these facts, the Department did not act in accordance with Department policy when it failed to continue to process Claimant's deferral based on pregnancy-related complications. Also, the Department failed to act in accordance with Department policy when it failed to inform Claimant that it was denying her deferral and to advise her of her right to discuss the deferral decision with a supervisor and to file a grievance with the One-Stop Service Center if she disagreed with the activities assigned at the work participation program. See BEM 230A, p 16.

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

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|---|--|
| <input type="checkbox"/> properly denied Claimant's application | <input checked="" type="checkbox"/> improperly denied Claimant's application |
| <input type="checkbox"/> properly closed Claimant's case | <input type="checkbox"/> 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 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. Reregister Claimant's FIP application dated February 29, 2012;
2. Begin reprocessing the application and the DHS-49 in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements for any FIP benefits Claimant was eligible to receive but did not from February 29, 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: 10/24/2012

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.

201277632/ACE

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:

