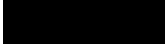


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**



IN THE MATTER OF:



Reg. No.: 2012-11592
Issue No.: 1038
Case No.: 
Hearing Date: December 8, 2011
County: Wayne (31)

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 December 8, 2011, from Detroit, Michigan. Participants on behalf of Claimant include Claimant and . Participants on behalf of Department of Human Services (Department) include 

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 November 4, 2011, the Department
 denied Claimant's application closed Claimant's case
due to Claimant being subject to a third FIP sanction.
3. On November 4, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On November 9, 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, 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.

Additionally, work eligible individuals 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; BEM 233A. Failing or refusing to attend or participate in a JET program or other employment service provider without good cause constitutes a noncompliance with employment or self-sufficient related activities. BEM 233A.

Clients who fail to comply with JET or work related activities without good cause are penalized with closure of their FIP cases. BEM 233A. At the time Claimant's FIP case was sanctioned on June 10, 2011, when the Notice of Case Action informing her of her FIP case closure was sent, Department policies provided that the first noncompliance resulted in a three-month FIP closure, the second noncompliance resulted in a three-month closure, and the third and subsequent noncompliances resulted in a 12-month closure. BEM 233A.

The Department testified that Claimant's November 4, 2011, FIP application was denied because Claimant was subject to lifetime disqualification from receipt of FIP benefits because she had previously received three sanctions under the FIP program for failing to comply with work-related activities. However, at the hearing, the Department failed to establish that Claimant had been subject to three FIP sanctions for noncooperation with her work-related activities. The case notes and participant history documents introduced into evidence by the Department indicated that Claimant's FIP case was closed on June 24, 2011, and on July 21, 2010. While the Department testified that the Notice of Case Action closing Claimant's case effective July 1, 2011, stated that Claimant's FIP case closed because Claimant had failed to participate with Work First, there was no evidence concerning the grounds resulting in the closure of Claimant's case on July 21, 2010. Furthermore, there was no evidence that Claimant's FIP had been sanctioned a third time. Because the Department failed to satisfy its burden of establishing that Claimant's FIP case had been sanctioned three times, the Department did not act in accordance with Department policy when it denied Claimant's November 4, 2011, FIP application.

Furthermore, the Department applied the incorrect sanction standard to Claimant's case. Effective October 1, 2011, the second noncompliance results in a six-month closure of FIP benefits, and the third noncompliance results in a lifetime closure of FIP benefits. BEM 233A. However, because Claimant's sanction was imposed on June 10, 2011, prior to the October 1, 2011, change in the Department's policy on FIP sanctions, Claimant was subject to the FIP sanctions in effect at the time her sanctions were

imposed. However, Claimant should be aware that if her FIP case is reinstated and the Department can establish that she has already been sanctioned at least twice, if her FIP case is again closed for failure to participate in work-related activities, she will be subject under BEM 233A to a lifetime disqualification from any further FIP benefits.

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.

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.

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 November 4, 2011, FIP application;
2. Begin reprocessing the application in accordance with Department policy;
3. Issue supplements to Claimant for any FIP benefits Claimant was entitled to receive, but did not, from November 4, 2011, 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: December 20, 2011

Date Mailed: December 20, 2011

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/cl

cc:

