

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

IN THE MATTER OF:



Reg. No.: 2012-52472
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 13, 2012
County: Wayne (55)

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 June 13, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

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 was an ongoing recipient of FIP benefits and was required to participate in employment-related activities.
2. On March 26, 2012, the Department sent Claimant a Notice of Noncompliance scheduling a triage on April 11, 2012.
3. Claimant did not participate in the triage.

4. The Department held the triage and found that Claimant had failed to comply with employment-related activities without good cause.
5. On May 1, 2012, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case effective May 31, 2012, based on a failure to participate in employment-related activities without good cause.
6. The Department imposed a first sanction for Claimant's failure to comply with employment-related obligations.
7. On May 11, 2012, Claimant filed a request for a hearing disputing the Department's action.

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 ACS, 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, at the hearing, Claimant clarified that she sought a hearing only with respect to the closure of her FIP case and that her issues concerning her FAP benefits had been addressed to her satisfaction.

In order to increase their employability and obtain employment, work eligible individuals (WEI) 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-sufficiency related activities justifying closure of a client's FIP case. BEM 233A. 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.

In this case, the Department sent Claimant a Notice of Noncompliance on March 26, 2012, notifying her of her noncompliance with the JET program and scheduling a triage on April 11, 2012. Claimant did not attend the triage. At the hearing, Claimant alleged that she did not receive the Notice of Noncompliance and was not aware of the triage date. She did, however, confirm that the Notice was addressed to her at her current address, and that she did not have any issues with her mail delivery. Under these facts, Claimant failed to rebut the presumption of receipt of a properly addressed notice sent by the Department in its ordinary course of business. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Thus, the Department held the triage in accordance with Department policy.

At the triage, the Department must consider the noncompliance and whether the client has good cause for the noncompliance even if the client does not attend. BEM 233A. At the hearing, Claimant admitted that she had received the Work Participation Program Appointment Notice sent to her on March 1, 2012, requiring her to attend the JET program orientation on March 14, 2012, but had not attended the orientation. Thus, Claimant acknowledged that she did not comply with the JET program requirement.

However, Claimant contended that she did not attend the JET program because she was employed and had advised her worker of her employment. Good cause is a valid reason for noncompliance which is beyond the control of the noncompliant person. BEM 233A. Good cause must be based on the best information available during the triage and prior to the negative action date and must be verified at the triage by

information already on file with the Department or the work participation program. BEM 233A.

In this case, the Department credibly testified that it was not aware of Claimant's employment until after the March 26, 2012 Notice of Noncompliance had been sent out. Furthermore, while good cause is established if the client is working at least 40 hours per week on average and earning at least state minimum wage (BEM 233A), Claimant conceded that her hours of employment fluctuated and that she had worked less than 20 hours per week on the weeks she was called in. Under those circumstances, Claimant could not establish good cause. Because the Department established that Claimant had not complied with her JET obligations and did not have good cause for her noncompliance, the Department acted in accordance with Department policy when it closed Claimant's FIP case. Because this was Claimant's first noncompliance, the Department properly sanctioned her FIP case by closing it for a three-month minimum period of time. BEM 233A.

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
- properly closed Claimant's case
- improperly denied Claimant's application
- 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 on the record.


Alice C. Elkin
 Administrative Law Judge
 For Maura Corrigan, Director
 Department of Human Services

Date Signed: June 18, 2012

Date Mailed: June 18, 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/cl

cc:

