

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

IN THE MATTER OF:



Reg. No.: 201264625
Issue No.: 1038; 3029
Case No.:
Hearing Date: August 30, 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 August 30, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Akeela Edwards, Claimant's Living-Together Partner (LTP) and an adult member of Claimant's FIP and FAP groups. Participants on behalf of Department of Human Services (Department) included , Family Independence Specialist.

ISSUE

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

Did the Department properly reduce Claimant's Food Assistance Program (FAP) based on Claimant's and/or Claimant's LTP's failure to comply with employment-related activities without good cause?

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 checked="" 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 1, 2012, the Department closed Claimant's FIP case and reduced Claimant's FAP benefits due to failure to comply with employment-related activities without good cause.
3. On June 27, 2012, the Department sent Claimant notice of the Department's actions.
4. On July 6, 2012 and July 23, 2012, Claimant filed hearing requests, protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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 Mich Admin Code, R 400.3101 through R 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 Mich Admin Code, R 400.3001 through R 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 Mich Admin Code, R 400.3151 through R 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 Mich Admin Code, R 400.5001 through R 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, on June 27, 2012, the Department sent Claimant a Notice of Case Action advising him that, effective August 1, 2012 his FIP case would close and be sanctioned for a minimum three-month period and his FAP benefits would be reduced based on his noncompliance with employment-related activities without good cause.

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, p 7.

Claimant's LTP testified that on May 16, 2012, she and Claimant presented medical documentation of their respective disabilities to their Work First worker. The worker told them that the documentation was not acceptable and advised them to contact the Department. On May 18, 2012, Claimant and his LTP met with the Department worker and told her that they were unable to participate in Work First activities because they were disabled. Once a client claims a disability, he must provide the Department with verification of the disability when reported. BEM 230A, p 10. Consequently, the Department gave Claimant and Claimant's LTP medical forms dated [REDACTED] for completion by their doctors. The completed documents were due on May 29, 2012.

The Department testified that it sent Claimant a Notice of Noncompliance on May 23, 2012 concerning Claimant's failure to attend Work First with a triage scheduled on June 27, 2012, explaining that the triage would be held if Claimant and the LTP failed to submit the medical verification of a disability. If a client fails to return verification of a disability, a disability is not established and the client will be required to fully participate in the work participation program as a mandatory participant. BEM 230A. The Department testified that the medical verification was not received by the June 27, 2012, triage and neither Claimant nor his LTP attended the triage. The Department

testified that the triage was held, and that it concluded that Claimant and his LTP had failed to comply with employment-related activities without good cause.

At the hearing, Claimant's LTP explained that she and Claimant had not attended the triage because they had not received the Notice of Noncompliance. The Notice was addressed to Claimant at a Norwalk address. Claimant's LTP testified that she had advised the Department worker at their May 18, 2012 meeting that she and Claimant had moved and had given their new address on Hazelwood to the worker. The Department worker acknowledged that she was given the new address but had failed to process the change of address in the Department's system. This evidence was sufficient to establish that Claimant and his LTP did not receive proper notice of the triage date. Thus, the Department did not act in accordance with Department policy when it closed Claimant's FIP case and reduced his FAP benefits.

Furthermore, the evidence at the hearing established that Claimant and his LTP submitted the completed medical verifications on July 12, 2012, which the Department testified were completed for both parties. Because the documents were submitted prior to the August 1, 2012 effective date of the negative action and established good cause, the Department was required to reinstate Claimant's FIP and FAP benefits and continue the process for verifying Claimant's and his LTP's disability. BEM 233A, pp 7-8, 10; BEM 230A, pp 10-11.

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 reduced his FAP benefits.

DECISION AND ORDER

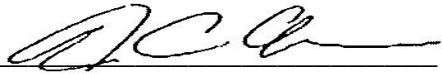
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly. did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC DSS decision is AFFIRMED REVERSED for the reasons stated on the record.

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 applied on, or about August 1, 2012, to Claimant's and Claimant's LTP's records;
2. Reinstate Claimant's FIP case as of August 1, 2012;
3. Recalculate Claimant's FAP budget for August 1, 2012, ongoing, to include Claimant and Claimant's LTP as qualified FAP group members;
4. Issue supplements to Claimant for any FIP and/or FAP benefits he was eligible to receive but did not from August 1, 2012, ongoing;

5. Continue processing Claimant's and his LTP's medical verifications in accordance with Department policy; and
6. 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: September 6, 2012

Date Mailed: September 6, 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/hw

cc:

