

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

IN THE MATTER OF:



Reg. No.: 201264785
Issue No.: 1038; 3029
Case No.: [REDACTED]
Hearing Date: August 30, 2012
County: Wayne (35)

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. Participants on behalf of Department of Human Services (Department) included [REDACTED], 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 wife'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 June 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 May 19, 2012, the Department sent Claimant notice of the Department's actions.
4. On July 9, 2012, Claimant filed a hearing request, 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, in this case, on May 19, 2012, the Department sent Claimant a Notice of Case Action notifying him that effective June 1, 2012 his FIP case would close for a three-month minimum period of time and his FAP benefits would be reduced because he had failed to comply with employment-related activities without good cause. That same day, the Department sent Claimant a Notice of Noncompliance advising him that he had failed to comply with employment-related activities. A Notice of Noncompliance dated May 19, 2012 was also sent to Claimant's wife advising her of a noncompliance on June 7, 2012. The Notices of Noncompliance scheduled triages on June 7, 2012, and advised Claimant and his wife that they had until May 29, 2012 to demonstrate good cause for their noncompliance and avoid closure of their FIP case and reduction of their FAP benefits.

To process a FIP closure, the Department must send the client a Notice of Noncompliance identifying the date of the noncompliance and the penalty that will be imposed and scheduling a triage to be held *within the negative action period* and (ii) determine good cause during the triage and *prior to the negative action effective date*. BEM 233A (May 1, 2012), pp 8-9 (emphasis added). At the hearing, the Department explained that, in order to process the Notice of Noncompliance, it had to issue the Notice of Case Action closing Claimant's FIP case, but that Claimant's FIP case and FAP benefits would be reinstated if Claimant established good cause at the triage. However, by scheduling the triage on June 7, 2012, after the negative action date of June 1, 2012, the Department did not act in accordance with Department policy. The Department also failed to act in accordance with Department policy when it sent Claimant's wife a Notice of Noncompliance on May 19, 2012, identifying a noncompliance date of June 7, 2012, more than two weeks after the date of the Notice. BEM 233A, p 9.

Furthermore, in this case, when Claimant attended the June 7, 2012 triage, he informed his worker that he could not participate in employment activities because he was disabled. Although Claimant's FIP case was closed at the time Claimant informed the Department of his disability, had the Department properly conducted the triage before the negative action date, Claimant would have been entitled to have his work participation deferred while he provided verification of his disability and he would have continued to have been entitled to FIP benefits. BEM 230A (December 1, 2011), p 10. If he failed to provide an initial verification of a disability lasting more than 90 days, through either a doctor's note or the doctor's completion of the DHS-49, DHS-54A or DHS 54-E, then he would be required to fully participate in the work participation program as a mandatory participant. BEM 230A, pp 10-11, 20. In this case, the

Department failed to act in accordance with Department policy when it failed to follow this process.

At the hearing, Claimant also testified that his wife, who was a member of his FIP and FAP groups, was also unable to participate in employment activities because her assistance was needed for his care. Claimant is advised that a deferral from the work participation program is available for a spouse who provides care for a spouse with disabilities living in the same home if a doctor verifies in writing, or by using a Medical Needs form (DHS-54A) or a Medical Needs-Work Participation Program form (DHS-54E), that (i) the spouse with disabilities requires a caretaker due to the extent of the disability, (ii) the spouse is needed in the home to provide care, and (iii) the spouse cannot engage in an employment-related activity due to the extent of care required. BEM 230A, p 15.

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 to Claimant's and Claimant's wife's records on or about June 1, 2012 ;
2. Reinstate Claimant's FIP case as of June 1, 2012;
3. Recalculate Claimant's FAP budget for June 1, 2012, ongoing, to include Claimant and his wife 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 June 1, 2012, ongoing;
5. 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:

