

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

IN THE MATTER OF:



Reg. No: 201264841
Issue No: 1005
Case No: [REDACTED]
Hearing Date: September 12, 2012
Manistee County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 September 12, 2012. Claimant appeared and testified. During the hearing it was determined that Claimant's request for hearing was in regard to the March 1, 2012 closure of her Family Independence Program (FIP) of the February 13, 2012 Notice of Case Action (DHS-1605) and the Departmental actions described in the May 1, 2012 Notice of Case Action (DHS-1605). Claimant's request on the March 1, 2012 closure of her FIP is not a hearable issue because her hearing request was made more than 90 calendar days after the February 13, 2012 written notice.

ISSUE

Did the Department properly process Claimant's February 27, 2012 Family Independence Program (FIP) application?

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 Family Independence Program (FIP) benefits.
2. On February 13, 2012, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Family Independence Program (FIP) case would close on March 1, 2012 for failure to provide required verifications (Pages 5-8).
3. On February 27, 2012, Claimant submitted an application for Family Independence Program (FIP) benefits. Along with the application Claimant

submitted a February 17, 2012 letter from Dr. Griffiths (Page 9) stating she was to be on crutches and elevate her foot for two weeks.

4. On March 27, 2012, the Department received verification of [REDACTED] with Claimant. [REDACTED] was verified by a home call conducted by his [REDACTED] (Page 12).
5. On March 30, 2012, a Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) was sent to Claimant. The notice required Claimant to attend JET on April 9, 2012 (Page 13).
6. On April 5, 2012, [REDACTED] began employment at [REDACTED] at [REDACTED] per hour for 35 to 40 hours per week (Pages 17 & 18).
7. On April 6, 2012, another Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) was sent to Claimant. The notice required Claimant to attend JET on April 23, 2012 (Page 21).
8. On April 23, 2012, the Department received a Medical Needs Form (DHS-54a) from [REDACTED] (Pages 19 & 20) which stated Claimant could work but with limitations. The form did not identify any limitations. Claimant did not attend JET as directed by the April 6, 2012 Work First/Jobs Education and Training Appointment Notice (DHS-4785 form).
9. On April 24, 2012, another Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) was sent to Claimant. The notice required Claimant to attend JET on April 30, 2012 (Pages 21 & 22).
10. On April 25, 2012, Claimant's case worker received Medical Review Team's denial of a JET deferral for Claimant (Pages 32 & 33).
11. On April 26, 2012, Claimant was sent a Verification of Employment (DHS Form 38) (Pages 23-25) because she reported [REDACTED] employment was reduced or terminated.
12. On April 27, 2012, Claimant reported she had another note from [REDACTED] stating she cannot work (Page 26).
13. On April 29, 2012, Claimant left the Department case worker a message that [REDACTED] should be removed from her case because he went to [REDACTED] for [REDACTED] (Page 28).
14. On April 30, 2012, Claimant did not attend JET as directed by the April 24, 2012, Work First/Jobs Education and Training Appointment Notice (DHS-4785 form). Claimant's medical information was sent to the Medical Review Team for evaluation on JET deferral.

15. On May 1, 2012, Claimant was sent a Notice of Case Action (DHS-1605) (Pages 34-38) which stated she was approved for Family Independence Program (FIP) benefits from March 16, 2012 till March 31, 2012 and denied Family Independence Program (FIP) benefits from April 1, 2012 ongoing. There was a comment section on the notice which stated March was approved because [REDACTED] was participating with Michigan Works Agency and Claimant was not required to participate because medical evidence was being obtained to evaluate her possible deferral. The comment also stated that Claimant did not attend the April 30, 2012 orientation at JET. The reason given for the Family Independence Program (FIP) denial from April 1, 2012 ongoing was failure to verify necessary information.
16. On May 15, 2012, Medical Review Team determined that Claimant was work ready with limitations and denied a JET deferral (Page 29),
17. On May 25, 2012, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Food Assistance Program (FAP) benefits were approved.
18. On July 12, 2012, Claimant submitted a request for hearing. The request was submitted to the DHS Healthy Kids Unit. The request was on page 5 of 6 of a Notice of Case Action (DHS-1605) dated May 25, 2012. On the request Claimant wrote she was requesting a hearing for “cash assistance & review of previous assistance for cash. [REDACTED].”

CONCLUSIONS OF LAW

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 1997 AACRS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Both the Department case worker and Claimant made arguments and presented evidence addressing the question of whether Claimant was non-compliant with JET. However, the Department action Claimant requested a hearing about was not any action directed in Department policy for non-compliance with work related activities (BEM 233A). Regarding non-compliance with work related activities Department policy is limited to denial of a FIP application with no requirement to consider good cause or a sanction for an ongoing FIP case which requires a triage meeting. Here the FIP application was initially approved and then shortly after denied, all retroactively.

There are provisions in Department policy for retroactive approval of benefits. However, there are no provisions for a retroactive “effective date” of a negative action.

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

**BAM 220 CASE ACTIONS
DEPARTMENT POLICY
All Programs**

Process the following case actions:

- Initial applications and reapplications (BAM 115).
- Redeterminations (BAM 210).
- Reinstatements (BAM 205).

Bridges will evaluate each change reported and entered in the system to determine if it affects eligibility.

Changes in circumstances may be reported by the client, via computer tape matches, through quality assurance (QA) reviews, or by other means.

A **positive action** is a DHS action to approve an application or increase a benefit.

A **negative action** is a DHS action to deny an application or to reduce, suspend or terminate a benefit. This includes an increase in a post-eligibility patient-pay amount for MA or an increase in the client pay for a special living arrangement.

**NOTICE OF CASE ACTIONS
All Programs**

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center.

Adequate Notice An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). Adequate notice is given in the following circumstances:

All Programs

- Approval/denial of an application.
- Increase in benefits.

Timely Notice All Programs

Timely notice is given for a **negative action** unless policy specifies adequate notice or no notice. See Adequate Notice and for CDC and FAP only, Actions Not Requiring Notice, in this item. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action.

Actions Not Requiring Notice CDC Provider Certificate/Notice of Authorization CDC Only

Notify CDC providers in writing when:

- Adding a new authorization for that provider.
- Shortening or lengthening an authorization period for that provider.
- Increasing or decreasing the authorized hours for that provider.
- Closing the CDC EDG.
- Increasing or decreasing the department pay percent for that provider.

EFFECTIVE DATE OF CHANGE All Programs

Bridges evaluates the following dates entered in data collection to determine positive action dates, negative action dates and effective dates:

- Circumstance start/change date.
- Reported on.
- Verification received on.
- Date client became aware.

CDC Only

Act on reported changes as soon as possible, but act within the standard of promptness; see STANDARDS OF PROMPTNESS, this item. The day a reported change is acted on is not always the day the change must take effect.

Positive Actions can be entered on Bridges to affect current, future, and past CDC pay periods. First determine the positive action date. If the change was reported timely, for example a change in providers, (within 10 calendar days), the positive action date is the day the change occurred or is expected to occur. If the change was reported late, the positive action

date is the day the change was reported. Positive actions take effect on the positive action date.

Exception: Department pay percent increases affect the first CDC pay period that begins on or after the positive action date.

Note: For a new or changed authorization to take effect on the positive action date, begin it the first day of the CDC pay period that contains the positive action date.

Negative Actions: If timely notice is required, the negative action date must be the first work day at least 11 days after the notice was sent, or the date the change is expected to occur if that is later. If adequate or no notice is required, the negative action date is immediate (the day action is taken on the change), but not before the change is expected to occur.

The following negative changes entered on Bridges take effect as follows:

- Department pay percent decreases take effect in the first CDC pay period that starts on or after the negative action date.
- CDC case closures and member removals (for example removing an eligible child) take effect on the negative action date.

Case actions that end an authorization without removing a member or close the CDC eligibility determination group (EDG) are not pended. If the ended authorization is not being replaced, or is being replaced with one for fewer hours, the change affects the first CDC pay period that begins on or after the negative action date. If replacing the authorization with one for more hours, the rules for positive actions are applied.

The evidence submitted by the Department is insufficient to determine if the dual actions noticed in the May 1, 2012 Notice of Case Action (DHS-1605) was an application approval with an improper closure or an improper approval. In either case the actions are not in accordance with Department policy and cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, decides the Department DID NOT properly process Claimant's February 27, 2012 Family Independence Program (FIP) application.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

It is further ORDERED that the Department reinstate Claimant's February 27, 2012 Family Independence Program (FIP) application and process the application in accordance with Department policy.

/s/

Gary F. Heisler
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 21, 2012

Date Mailed: September 21, 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

GFH/tb

cc:

