

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201268213
Issue No.: 1038; 3029
Case No.: [REDACTED]
Hearing Date: October 4, 2012
County: Wayne (18)

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 October 4, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Manager; [REDACTED], Triage DHS Coordinator; and [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 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 September 1, 2012, the Department closed Claimant's FIP case and reduced her FAP benefits due to failure to comply with employment-related activities without good cause.
3. On July 27, 2012, the Department sent Claimant notice of the Department's actions.
4. On July 31, 2012, Claimant filed a hearing request, protesting the Department's actions.

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.

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 July 27, 2012, the Department sent Claimant a Notice of Case Action advising her that, based on her noncompliance with employment-related activities without good cause, effective September 1, 2012, her FIP case would close for a minimum six-month period and her FAP benefits would be reduced.

Noncompliance

In order to increase their employ ability 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.

At the hearing, the Department testified that Claimant had missed a JET appointment on July 2, 2012, resulting in Claimant signing a compliance form agreeing to strictly comply with the terms of the JET program between July 3, 2012, and July 17, 2012. When Claimant was late submitting documentation on July 9, 2012, the Department had Claimant sign another compliance form for the period between July 9, 2012, and July 23, 2012. The Department testified that the compliance tests were offered to Claimant as a "second chance" to comply with the JET program and avoid a triage.

On July 10, 2012, Claimant was assigned to participate in community service at the [REDACTED]. When Claimant's JET worker called the [REDACTED] to confirm that Claimant was there, she was informed that Claimant had arrived but had left within 5 minutes of her arrival, claiming that she had sprained her ankle on the way in. The Department subsequently sent Claimant a July 18, 2012, Notice of Noncompliance advising her that she had failed to participate in required activities on July 10, 2012 and scheduling a triage on July 26, 2012.

At the hearing, the Department clarified that the triage resulted from Claimant's failure to participate in her required activities on July 10, 2012. The Notice of Noncompliance, which references only a noncompliance date of July 10, 2012, also confirms that the noncompliance at issue was that arising on that date. See BEM 233A (May 1, 2012), p 9). Thus, even though evidence concerning other alleged incidents of noncompliance by Claimant were presented at the hearing, in particular those leading to the two compliance forms signed by Claimant, Claimant's nonparticipation in her required

activities at the Salvation Army on July 10, 2012, serves as the basis for the noncompliance at issue in this case.

Good Cause

JET participants will not be terminated from a JET program without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p 7. Good cause is a valid reason for noncompliance which is beyond the control of the noncompliant person and includes an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. BEM 233A, pp 3, 5. Good cause must be based on the best information available during the triage and prior to the negative action date and may be verified by information already on file with the Department or the work participation program. BEM 233A, p 8.

After Claimant failed to participate in her July 10, 2012, scheduled activity at the [REDACTED] the Department scheduled a triage on July 26, 2012 to discuss the noncompliance and good cause. Claimant attended the triage and contended that she had good cause for her noncompliance because she had injured her ankle on the way into the Salvation Army on the morning of July 10, 2012, exacerbating an existing ankle condition. Claimant presented documentation from the [REDACTED] Department, which she credibly testified she presented to the Department at the triage, showing that she had registered at the Emergency Room on [REDACTED], at [REDACTED]. Claimant also testified that she brought a Medical Needs- JET document her family doctor completed on [REDACTED], to the triage. In the form, the doctor indicated that Claimant was unable to work for three months. The Department testified that it did not accept the document because it was dated [REDACTED], a date after the [REDACTED] incident. However, because the document referenced ankle pain, it further established Claimant's injury the previous week. Furthermore, because Claimant credibly testified that she was unable to schedule a visit with her doctor prior to July 17, 2012, the documentation Claimant provided was sufficient to establish that she had a short-term disability arising from the [REDACTED] incident. See BEM 230A, p 10.

Based on the documentation presented by Claimant at the triage, Claimant established good cause for her [REDACTED], noncompliance. Therefore, the Department did not act in accordance with Department policy when it closed Claimant's FIP case for failure to comply with employment-related activities without good cause.

Because Claimant established good cause for her noncompliance with employment related activities, she was not a disqualified member of her FAP group. See BEM 233B (December 1, 2011), p 2. Thus, the Department did not act in accordance with Department policy when it removed her as a member of her FAP group and reduced her FAP 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 improperly closed Claimant's FIP case and reduced her 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, for the reasons stated above and on the record, the Department's AMP FIP FAP MA SDA CDC DSS decision is AFFIRMED REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FIP case as of September 1, 2012;
2. Remove the FIP sanction entered on or about September 1, 2012, from Claimant's record;
3. Begin recalculating Claimant's FAP benefits from September 1, 2012, ongoing in accordance with Department policy to include Claimant as a qualified FAP group member;
4. Issue supplements for any FIP and/or FAP benefits Claimant was eligible to receive but did not from September 1, 2012, ongoing; and
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: 10/12/2012

Date Mailed: 10/12/2012

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

Re consideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

ACE/hw

cc:



MAHS