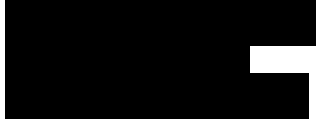


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 201269842
Issue No.: 1038
Case No.:
Hearing Date: October 15, 2012
County: Wayne (31)

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 15, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included 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 applied for benefits received benefits 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). | |

2. On August 1, 2012, the Department

denied Claimant's application closed Claimant's case
due to failure to participate in employment-related activities without good cause.

3. On July 20, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On July 31, 2012, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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, the Department closed Claimant's FIP case effective August 1, 2012 because she failed to participate in employment-related activities without good cause. Claimant's FAP case was not affected by the closure of her FIP case.

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.

In this case, the Department sent Claimant a Work Participation Program Appointment Notice requiring that she attend a June 4, 2012 JET orientation. Claimant acknowledged receiving the Appointment Notice but testified that, because she was disabled as a result of an automobile accident, she did not attend the orientation. Instead, she contacted her doctor to arrange to have medical documentation for a deferral completed. In light of the fact that Claimant admitted she did not attend the orientation, the Department established that Claimant had failed to comply with FIP employment-related activities.

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. The Department testified that it sent Claimant a July 11, 2012, Notice of Noncompliance notifying her of her noncompliance and scheduling a triage on July 18, 2012.

Claimant testified that she did not receive the July 11, 2012 Notice of Noncompliance and, consequently, did not attend the triage. The Notice was sent to Claimant at her address on Robson. Claimant testified that she had moved in July 2012 from Robson to her new home on Dawson. However, while Claimant testified that the Department had not processed her change of address until September 2012, by her own testimony, she did not notify the Department of her change of address until August 2012. Thus, the Department acted in accordance with Department policy when it sent the July 11, 2012, Notice to Claimant's address of record at the time. As such, Claimant did not have good cause for her failure to attend the triage.

Although Claimant did not attend the triage to present her good cause explanation for her noncompliance, the Department was nonetheless required to hold the triage and

consider whether Claimant had good cause for her nonattendance. BEM 233A, pp 7, 8. Good cause is 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. In this case, Claimant testified that she had her doctor complete and forward a Medical Needs form to the Department and provided a copy of the document at the hearing. However, the form was not marked as received by the Department, and the Department denied receiving it in connection with the June 2012 noncompliance. Furthermore, while a short- or long-term incapacity which prevents a client's participation in employment related activities may serve as the basis for a deferral from participation in JET activities (BEM 230A, p 10), the Medical Needs form Claimant provided indicated that she was last seen by her doctor on January 30, 2012, and did not indicate that she had a disability that prevented her participation in employment-related activities. Because the Department did not have any information in its files at the July 18, 2012, triage which indicated that Claimant had a deferral or claimed a disability that made her unable to work at the time of the June 4, 2012, orientation she failed to attend, the Department acted in accordance with Department policy when it concluded that Claimant did not have good cause for her noncompliance. Although Claimant presented a July 18, 2012, medical evaluation at the hearing, because there was no evidence that the Department had this document at the triage or prior to the August 1, 2012 effective date of the negative action closing Claimant's FIP case, the Department was not required to consider the document in connection with Claimant's good cause determination. See BEM 233A, p 8. Thus, the Department acted in accordance with Department policy when it closed Claimant's FIP case. Because this was Claimant's first noncompliance with FIP employment-related activities, the Department properly closed Claimant's FIP case for a three-month period. BEM 233A (October 1, 2012), p 6.

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

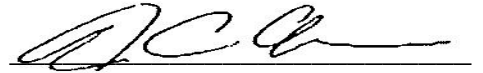
properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

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: 10/23/2012

Date Mailed: 10/23/2012

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:

