

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

IN THE MATTER OF:



Reg. No.: 2012-72103
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: October 22, 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 October 22, 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 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 6, 2012, the Department
 denied Claimant's application closed Claimant's case
due to failure to attend and participate in the Jobs, Education and Training (JET)
program prior to her case opening .
3. On August 6, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On August 17, 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 AACCS, 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, in an August 6, 2012, Notice of Case Action, the Department denied Claimant's TC-60 FIP application, which was submitted on June 11, 2012, and dated back to February 29, 2012, because Claimant had failed to attend the Jobs, Education and Training (JET) orientation.

In order to increase their employability and obtain employment, work eligible individuals (WEIs) seeking FIP are required to participate in the 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. Work participation program engagement is a condition of FIP eligibility, and while the FIP application is pending, clients must engage in and comply with all work participation program assignments. BEM 229 (December 1, 2011), pp 3, 5. If an applicant fails or refuses to appear and participate with the JET program or other employment service provider without good cause while the FIP application is pending, the applicant is noncompliant and the Department will deny the application. BEM 229, p 5; BEM 233A, pp 1-2, 5. A good cause hearing is not required for applicants who are non-compliant prior to the FIP case opening. BEM 233A, p 7.

In this case, the Department sent Claimant a Work Participation Program Appointment Notice on July 23, 2012, requiring her to attend a July 25, 2012, JET orientation. The Department must allow ten days for the work participation program referral to be processed through its central print before requiring the client to attend the work participation program. BEM 229, p 5. While Claimant acknowledged that she received the July 23, 2012, Appointment Notice, this was only because she happened to talk to her worker that day regarding her FAP case and, when she informed her worker that she had not received an Appointment Notice, the worker advised her to come to the office to pick up a copy, which Claimant testified she did the next day, on July 24, 2012. Although Claimant received the Appointment Notice prior to the orientation date, the Department did not act in accordance with Department policy where the Notice required Claimant to attend the JET orientation within two days of the date of the Notice.

Furthermore, Claimant credibly testified that, on the orientation date, her son, who has sickle cell anemia, was ill and Claimant had to stay home to care for him. Claimant credibly testified that she called her worker and told her that she could not attend the orientation because of her son's illness and was unable to get anyone to care for him on such short notice and asked that her orientation be rescheduled. The Department

worker acknowledged she may have received a call from Claimant but could not recall. The Department may extend the day the client has to attend orientation when necessary. BEM 229, p 5. In this case, the worker testified that Claimant had until August 4, 2012, to attend the JET orientation but acknowledged that Claimant was not aware of this fact. Thus, the Department did not act in accordance with Department policy when it failed to reschedule Claimant's JET orientation.

Under the facts in this case, where Claimant was given only two days from the date of the Appointment Notice to make arrangements to attend the orientation and where Claimant called in prior to the appointment to reschedule it, as provided by the terms of the Appointment Notice, the Department did not act in accordance with Department policy when it denied Claimant's FIP case on the basis that she failed to participate in the JET program.

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.

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

1. Reregister Claimant's TC-60 FIP application received on June 11, 2012, and dated back to February 29, 2012;
2. Begin reprocessing the application in accordance with Department policy;
3. Issue supplements for any FIP benefits Claimant was entitled to receive but did not from February 29, 2012, ongoing; and

4. Notify Claimant of its decision in writing in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: October 26, 2012

Date Mailed: October 26, 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.

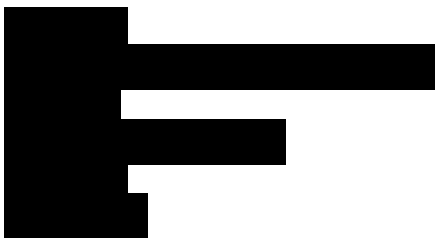
Claimant may request a rehearing or reconsideration for the following reasons:

- 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

SCB/ctl

cc:



A. Elkin