

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-72607
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: October 22, 2012
County: Wayne (76)

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 and [REDACTED], Claimant's mother. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Manager; [REDACTED], Family Independence Specialist; and [REDACTED], Department Coordinator for the JET program.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for 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 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. The Department closed Claimant's FIP case, effective September 1, 2012, due to failure to comply with employment-related activities without good cause.

3. On August 13, 2012, the Department sent Claimant notice of the Department's actions.
4. On August 21, 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 August 13, 2012, the Department sent Claimant a Notice of Case Action advising her that, based on her noncompliance with employment-related activities without good cause, her FIP case would close for a minimum three-month period beginning September 1, 2012.

Closure of FIP Case

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.

In this case, as part of her activities in the JET program, Claimant was assigned to participate in work experience activities in a [REDACTED]. After some delay during which a background check on Claimant was processed, on August 7, 2012, Claimant's JET worker referred her back to the store on August 8, 2012. When the worker called the store on August 10, 2012, he was advised that Claimant had not come in on August 8 or 9. The worker contacted Claimant to get her to reengage with the work activities. Claimant testified that she told the JET worker that she had issues with her child care and transportation. Claimant further testified that, because the store was unwilling to change her participation hours, she decided not to participate on August 10 or 11.

On August 13, 2012, the Department sent Claimant a Notice of Noncompliance, advising her that she had failed to comply with employment-related activities and scheduling her for a triage on August 21, 2012. Claimant attended the triage, but the Department concluded that she failed to establish good cause for her noncompliance.

At the triage, the Department is required to consider whether Claimant had good cause for her noncompliance. 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 contended that she had good cause for her noncompliance because she did not have child care for her child. Department policy provides that the lack of child care constitutes good cause when (i) the client has requested child care services from the Department, the work participation program, or other employment services provider *prior* to case closure for noncompliance **and** (ii) child care is needed for an eligible child but none is appropriate, suitable, affordable and within reasonable

distance of the client's home or work site. BEM 233A, p 4. Claimant conceded that, because she had not previously had issues with child care, she never filed an application for Child Development and Care (CDC) benefits or otherwise requested child care services prior to her FIP case closure. Because Claimant did not request services prior to the case closure, she could not rely on the lack of child care to establish a good cause explanation for her noncompliance.

At the hearing, Claimant also explained that she had to take two bus transfers and could not get to the store, which was located in Troy, in a timely manner. A good cause exception to noncompliance is available when total commuting time exceeds two hours per day (not including time to and from child care facilities). BEM 233A, p 5. However, the Department credibly testified that Claimant had not presented her commute as an explanation for her noncompliance at the triage. Claimant's commute does not appear as an issue in any of the case notes concerning Claimant's case. Furthermore, Claimant acknowledged that she signed the document prepared in connection with the triage titled "Three-Way Meeting" and, while "day care" was marked as a barrier which prevented noncompliance, "transportation" was not.

Under these facts, the Department acted in accordance with Department policy when it found that Claimant had failed to comply with employment-related activities without good cause and sanctioned Claimant's FIP case by closing it for a minimum three-month period. See BEM 233A, 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 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.



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