

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

IN THE MATTER OF:



Reg. No.: 201276168
Issue No.: 1038; 3029
Case No.:
Hearing Date: October 11, 2012
County: Wayne (15)

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 11, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included , Family Independence Specialist and JET worker.

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 exclude Claimant from her Food Assistance Program (FAP) group 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. The Department closed Claimant's FIP case, effective September 1, 2012, and removed her as a member of her FAP group, effective October 1, 2012, due to failure to comply with employment-related activities without good cause.
3. On August 18, 2012, the Department sent Claimant notice of the Department's actions.
4. On September 6, 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 18, 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, and she would be removed from her FAP group effective October 1, 2012. Although the Department initially testified that Claimant was a FIP applicant, not an ongoing recipient, Claimant testified that she had received a FIP allotment for the second half of March 2012, but had not received any FIP benefits since mid-April 2012. The fact that Claimant's case was sanctioned with a minimum three-month closure supports the conclusion that Claimant was an ongoing recipient of FIP benefits at the time the August 18, 2012 Notice of Case Action was sent. See BEM 233A, pp 5-6. The Department did not explain why Claimant had not continued to receive benefits after mid-April 2012.

Closure of 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, Claimant was referred to a JET orientation on July 30, 2012, but did not attend. At the hearing, Claimant confirmed that she did not attend the orientation but contended that she should not have been referred to the JET program because she began full-time employment on April 10, 2012, and was working more than 40 hours per week at the time she was scheduled to attend the JET orientation. Clients who are working a minimum of 40 hours per week at the state minimum wage are not referred to the work participation program because the client's participation in employment is meeting the FIP requirements. BEM 230A, p 7. Claimant credibly testified that the Department was aware that she was working. In fact, she had applied for Child Development and Care (CDC) benefits on several occasions to assist her with day care expenses. While it was not entirely clear when Claimant applied for CDC benefits, or advised the Department of her employment, Claimant testified that she had provided the Department with a Verification of Employment (VOE) in July 2012. The Department confirmed that it had received a VOE from Claimant's employer but could not confirm the date. The Department was provided the opportunity to provide a copy of the VOE to

include as a hearing exhibit but did not do so. Thus, the Department offered no evidence to counter Claimant's credible testimony that she had informed the Department of her employment prior to the date she was referred to the July 30, 2012, JET orientation.

Furthermore, although Claimant did not attend the August 28, 2012, triage, the Department was required to 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. Good cause includes working at least 40 hours per week on average and earning at least state minimum wage. BEM 233A, p 4. Claimant's CDC applications referencing her employment were a part of information already on file with the Department. Because the Department did not consider Claimant's employment at the triage, it did not act in accordance with Department policy when it closed Claimant's FIP case for failure to participate in employment-related activities without good cause.

Reduction of FAP Benefits

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 when recalculating 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 FIP eligibility and benefit allotment, in accordance with Department policy, for April 1, 2012, ongoing;

4. Begin recalculating Claimant's FAP budget from October 1, 2012, ongoing, in accordance with Department policy to include Claimant as a qualified FAP group member;
5. Issue supplements for any FIP and/or FAP benefits Claimant was eligible to receive but did not from April 1, 2012, ongoing; and
6. 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: 10/17/2012

Date Mailed: 10/17/2012

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:

