

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201315266
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: January 30, 2013
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 January 30, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's home health care worker. Participants on behalf of Department of Human Services (Department) included [REDACTED], JET Case Worker; [REDACTED], JET Coordinator; and [REDACTED], Family Independence Manager.

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. On January 1, 2013, the Department closed Claimant's FIP due to failure to comply with employment-related activities without good cause.

3. On December 3, 2012, the Department sent Claimant notice of the Department's actions.
4. On December 5, 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 December 3, 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 January 1, 2013, her FIP case would close for a minimum three-month period.

The evidence in this case established that Claimant had been denied a JET deferral by Medical Review Team (MRT) on August 8, 2012. The Department subsequently sent Claimant two Work Participation Program Appointment Notices requiring Claimant's attendance at a JET orientation. Claimant did not attend either appointment but established good cause for her noncompliance on both occasions.

Claimant was referred to a third JET orientation on November 19, 2012. She did not attend this orientation. However, she called her worker the next day to explain that she had been hospitalized. The Department responded by sending a Medical Determination Verification Checklist on November 20, 2012, requesting medical documentation to establish a JET deferral. The documentation was due by December 6, 2012, and was timely submitted on December 5, 2012.

On December 3, 2012, the Department sent Claimant a Notice of Noncompliance scheduling a triage on December 13, 2012. The Department testified that it did not hold the triage because when it received the medical documentation submitted by the Department, it concluded that Claimant's doctor had not presented any medical conditions different than the ones that had been previously presented and evaluated by MRT in August 2012 when it concluded that Claimant was not disabled or eligible for a JET deferral. The Department sent Claimant a December 3, 2012 Notice of Case Action closing her FIP case effective January 1, 2013, for failure to comply with employment-related activities without 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 (November 1, 2012), p 7. In this case, the Department testified that it did not hold a triage. Claimant's credible testimony that she was hospitalized between November 14, 2012, and November 19, 2012, established an unplanned event or factor, which likely prevented or significantly interfered with employment-related activities, and provided good cause for her nonattendance at the November 19, 2012, JET orientation. BEM 233A, p 5. By failing to hold a triage, Claimant was denied the opportunity to present her good cause explanation for her noncompliance, which would have prevented the closure of her FIP case. In this case, the Department did not act in accordance with Department policy in failing to hold the triage and accepting Claimant's good cause explanation.

The evidence at the hearing also established that, shortly after she submitted her medical documentation on December 5, 2012, and before her FIP case closure on December 31, 2012, Claimant provided additional medical documentation clarifying her condition and establishing that she had additional, different medical conditions than those identified in the medical documentation reviewed by MRT in August 2012. The Department testified that it had forwarded that documentation to MRT for assessment. Because Claimant submitted the documentation prior to the December 31, 2012, closure of her FIP case, Department policy requires that Claimant be deferred from the work participation program until MRT's JET deferral assessment is complete. BEM 233A, p 8; BEM 230A (November 1, 2012), pp 10-13.

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.


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 January 1, 2013;
2. Remove the FIP sanction entered on or about January 1, 2013, from Claimant's record; and
3. Begin issuing supplements for any FIP benefits Claimant was eligible to receive but did not from January 1, 2013, ongoing.


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

Date Signed: February 5, 2013

Date Mailed: February 5, 2013

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:

