

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

IN THE MATTER OF:



Reg. No.: 201324645
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 25, 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 February 25, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED] [REDACTED], Family Independence Specialist/JET Case Manager.

ISSUE

Did the Department properly close Claimant's case for Family Independence Program (FIP) benefits 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 denied Claimant's application closed Claimant's FIP case due to failure to comply with employment-related activities.

3. On November 28, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On January 22, 2013, Claimant filed a hearing request concerning her FIP 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, although the November 28, 2012 Notice of Case Action indicates under the Specialist's Comments that "income [was] budgeted," the reason cited for the closure of Claimant's FIP case on the Notice was that Claimant had failed to participate in employment and/or self-sufficiency activities. The Notice also provided that the case would remain closed for at least three months, the sanction applicable to a first-time noncompliance with FIP employment-related activities.

In order to increase their employability and obtain employment, work eligible individuals (WEIs) seeking FIP are required to participate in the work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230 (November 1, 2012), p 1; BEM 233A (November 1, 2012), pp 1-2 . In this case, the Department testified that the sole noncompliance at issue was Claimant's failure to complete the Family Automated Screening Tool (FAST) survey. Failing or refusing to complete the FAST survey, as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process, without good cause constitutes a noncompliance with self-sufficiency-related activities. BEM 233A, pp 1-2.

At the hearing, Claimant admitted that she did not complete the FAST survey. Although she testified that she never received the FAST Mandatory Notice sent to her on October 26, 2012, notifying her that she was required to complete the online FAST survey within 30 days, the Department established that the Notice was sent to Claimant's address of record in the ordinary course of business. Claimant failed to establish that she had previously advised the Department of a change of address. Thus, Claimant failed to rebut the presumption that she received the Notice. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976). However, while Claimant's failure to complete the FAST survey constituted a noncompliance with employment-related activities, BEM 233A provides that, if a client fails to complete a FAST survey, the Department should close the client's FIP case due to failure to provide requested verification, and the client can reapply at any time. BEM 233A, pp 2, 7. In this case, the Department did not act in accordance with Department policy when it closed and sanctioned Claimant's FIP case for failure to comply with employment-related activities rather than closing Claimant's FIP case for failure to provide requested verifications.

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 above and 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. Remove the FIP sanction imposed on, or about January 1, 2013, from Claimant's FIP case;
2. Begin reinstating Claimant's FIP case as of January 1, 2013; and
3. Begin issuing supplements to Claimant for FIP benefits she was eligible to receive, in accordance with Department policy, but did not from January 1, 2013, ongoing.


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

Date Signed: 2/28/2013

Date Mailed: 2/28/2013

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:

