

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201326964
Issue No.: 1038; 3019
Case No.: [REDACTED]
Hearing Date: March 7, 2013
County: Wayne (31)

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 March 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's minor child. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits and reduce her Food Assistance Program (FAP) for a minimum six-month period 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:
 - Family Independence Program (FIP). Adult Medical Assistance (AMP).
 - Food Assistance Program (FAP). State Disability Assistance (SDA).
 - Medical Assistance (MA). Child Development and Care (CDC).
 - Direct Support Services (DSS).

2. On December 1, 2012, the Department closed Claimant's FIP case and reduced her FAP benefits due to failure to comply with employment-related activities without good cause.

3. On October 23, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On November 30, 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 Department of Human Services Bridges Administrative Manual (BAM) (2012), the Bridges Eligibility Manual (BEM) (2012), and the Reference Tables Manual (RFT) (2012).

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 AACRS, 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.

On October 23, 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 December 1, 2012, her FIP case would close and be sanctioned for a minimum six-month period and her FAP benefits would be reduced for a minimum six-month period.

Closure of FIP Case

In order to increase their employability and obtain employment, work eligible individuals (WEIs) seeking FIP are required to participate in a work participation 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 (October 1, 2012), p 1. Failing or refusing to attend or participate in a work participation program or other employment service provider without good cause constitutes a noncompliance with employment or self-sufficiency related activities. BEM 233A, p 2. However, FIP recipients will not be terminated from a work participation program for noncompliance, and their FIP case may not be closed, without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p 7.

In this case, the Department testified that it sent Claimant a Notice of Noncompliance on October 23, 2012, notifying her that she had failed to participate in required activities and scheduling a triage on October 31, 2012. While the Department worker was unable to explain the noncompliance at issue, she testified that Claimant did not appear at the triage to discuss the noncompliance and provide a good cause explanation for any noncompliance. The Department concluded that Claimant had failed to show good cause for her noncompliance, and, as a result, her FIP case was closed effective December 1, 2012, for a minimum six-month period and her FAP benefits were reduced by removing her as a qualified member of her group for a minimum six-month period.

At the hearing, Claimant acknowledged that she did not attend the triage, but contended that she did not receive the Notice of Noncompliance scheduling the triage. The Department provided a copy of the Notice at the hearing, which was addressed to Claimant at the address she verified at the hearing. Although Claimant testified that her mail was being delivered to a neighbor's home and that the postal worker told her that he was afraid of the dogs at her residence, her testimony was contrary to her own request for hearing in which she stated that she received a notice of her nonparticipation. Because Claimant did not attend the triage to explain her noncompliance and provide any good cause explanation, including her claim that she was unable to participate in the work participation program because she was disabled, the Department had to determine good cause based on the best information available

during the triage and prior to the negative action date. BEM 233, pp 7-8. Claimant's own testimony established that she had been unable to reengage in the work participation program after she was referred to a new location. Thus, there was a noncompliance. The Department testified that, in the absence of any explanation by Claimant at the triage concerning her reason for her noncompliance, there was no verified good cause for the noncompliance. See BEM 233A, p 7. Under these facts, the Department acted in accordance with Department policy when it concluded that there was noncompliance with employment-related activities without good cause and closed Claimant's FIP case.

Although the Department contended that this was Claimant's second occurrence of FIP employment-related noncompliance, it failed to present any evidence of prior noncompliances and Claimant denied any prior sanctions. Thus, the Department failed to satisfy its burden of showing that it properly applied a second sanction resulting in closure of Claimant's FIP case for a six-month minimum. See BEM 233A, p 6.

Reduction in FAP Benefits

The Department acted in accordance with Department policy when it excluded Claimant as a qualified member of her FAP group as a result of her noncompliance with employment-related activities and reduced her FAP benefits as a result of the reduced group size. BEM 233B (October 1, 2012), pp 1-2; BEM 212 (April 1, 2012), p 7. The Notice of Case Action indicates that this was a second occurrence of noncompliance. However, the Department did not present any evidence establishing a prior noncompliance. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it applied a second sanction resulting in closure of Claimant's FAP case for a six-month minimum. See BEM 233B, p 5.

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 closed Claimant's FIP case and reduced her FAP benefits, but failed to satisfy its burden of showing that Claimant was subject to second FIP and FAP employment-related sanctions.

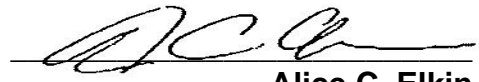
DECISION AND ORDER

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 properly closed Claimant's FIP case and improperly reduced her FAP benefits.

Accordingly, for the reasons stated above and on the record, the Department's decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to closure of Claimant's FIP case and reduction in FAP benefits and REVERSED IN PART with respect to the application of second, rather than first, FIP and FAP sanctions.

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

1. Remove any second FIP and FAP sanctions entered on, or about, December 1, 2012 from Claimant's record;
2. Begin recalculating Claimant's FAP benefits for March 1, 2013, ongoing, to include Claimant as a qualified member of her FAP group, if she establishes eligibility in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from March 1, 2013, ongoing; and
4. 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: 3/13/2013

Date Mailed: 3/13/2013

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:

