

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201329652
Issue No.: 1038; 3029
Case No.: [REDACTED]
Hearing Date: March 13, 2013
County: Wayne (19)

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 13, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Manager; [REDACTED], JET Case Manager; and [REDACTED], Triage Coordinator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce her Food Assistance Program (FAP) benefits based on Claimant's failure to participate in 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. On March 1, 2013, the Department closed Claimant's FIP case and reduced her FAP benefits due to her failure to participate in employment-related activities without good cause.

3. On January 31, 2013, the Department sent Claimant notice of the FIP closure and FAP reduction.
4. On February 11, 2013, Claimant filed a hearing request, protesting the denial of the application. closure of the 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, the Department sent Claimant a Notice of Case Action on January 31, 2013, notifying her that effective March 1, 2013, her FIP case would close and her FAP benefits would be reduced because she had failed to participate in employment-related activities without good cause. The Department testified that Claimant's case would remain closed for a three-month minimum period, the sanction applicable to a first occurrence of noncompliance.

Closure of FIP Case

As a condition of FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 1, 2013), p 1; BEM 233A (January 1, 2013), 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 required activities justifying closure of a client's FIP case. BEM 233A, pp 1-2. In this case, the Department testified that it sent Claimant a Work Participation Program Appointment Notice on January 2, 2013, notifying her that she was required to attend the work participation program orientation on January 15, 2013. Claimant did not attend the orientation.

The Department must schedule a triage meeting with a client before closing her FIP case to jointly discuss noncompliance and good cause. BEM 233A, p 7. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities and is based on factors beyond the control of the noncompliant person. BEM 233A, p 3. At the hearing, Claimant testified that she did not receive the Work Participation Program Appointment Notice. The Department did not provide a copy of the Notice at the hearing but testified that it was sent to Claimant at the street address she verified on the record but to "apartment 90." Claimant credibly testified that she lived in apartment 9B, not apartment 90. Because the Notice was not properly addressed to Claimant, Claimant rebutted the presumption that she received the Notice sent by the Department. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976). Under these facts, the Claimant established good cause for her failure to comply with the work participation program. Thus, the Department did not act in accordance with Department policy when it closed Claimant's FIP case for a three-month minimum period.

Reduction in FAP Benefits

The January 31, 2013 Notice of Case Action advised Claimant that her FAP benefits were being reduced. The Department testified that, because Claimant had minor children under the age of six in her home, Claimant should not be excluded from her FAP group and her FAP benefits should not have been reduced. It credibly testified that it corrected the error FAP on February 13, 2013 and Claimant was eligible for, and had been receiving ongoing, uninterrupted monthly FAP benefits of \$526, the maximum

available to her group size of three, as of March 1, 2013. Thus, the Department resolved the FAP issue prior to the hearing.

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 corrected its error with respect to 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 with respect to Claimant's FAP case. did not act properly with respect to Claimant's FIP case.

Accordingly, the reasons stated above and on the record, the decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to the corrected issuance of FAP benefits AND REVERSED IN PART with respect to the closure of Claimant's FIP case and application of the three-month sanction.

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 March 1, 2013 from Claimant's record;
2. Reinstate Claimant's FIP case as of March 1, 2013;
3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not for 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: 3/25/2013

Date Mailed: 3/25/2013

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:

