

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201343638
Issue No.: 1038; 3029
Case No.: [REDACTED]
Hearing Date: May 29, 2013
County: Wayne (55)

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 May 29, 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], PATH Coordinator; and [REDACTED], Triage Liason at ACC.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce her Food Assistance Program (FAP) benefits for failure to cooperate with employment related activities?

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 was an ongoing recipient of FIP and FAP benefits.
2. In connection with her FIP eligibility, Claimant was required to participate weekly in 30 hours of employment-related activities.
3. In connection with a redetermination, Claimant informed her worker that she had applied for disability benefits with the Social Security Administration (SSA), and the Department sent her a Medical Needs-JET (DHS-54), Medical Examination Report (DHS-49), Medical Social Questionnaire (DHS-49F), Activities of Daily Living (DHS-

49G), Authorization to Release Protected Health Information (DHS-1555) and Verification of Application or Appeal for SSI/RSDI (DHS-1552).

4. The documents did not have a due date.
5. On April 19, 2013, the Department sent Claimant a Notice of Noncompliance scheduling a triage on April 25, 2013, and a Notice of Case Action notifying her that, effective May 1, 2013, it would close her FIP case for a six month minimum and reduce her FAP benefits for a six-month minimum due to failure to comply with employment-related activities without good cause.
6. Claimant participated in the triage and stated that she had difficulties walking and presented documents concerning doctor's appointments on April 9, 10, 11, 16 and 17 for herself and her children.
7. The Department concluded that Claimant had failed to verify good cause for her noncompliance with work participation program activities.
8. On April 25, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), and the Department of Human Services 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 Mich Admin Code Rules through 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 Mich Admin Code Rules 400.3001 through 400.3015.

Closure of FIP Case

The Department testified that, when Claimant informed her worker that she had applied for benefits with SSA, the worker sent Claimant medical documents on March 27, 2013, to establish her eligibility for a deferral for the work participation program. If a client at

any time during an ongoing benefit period (i) claims to be disabled or (ii) indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition or (ii) has applied for RSDI/SSI, the Department must defer that individual from participating in employment-related activities in its system. BEM 230A (January 2013), p 9. The Department identifies the deferral/participation reason on its system for such clients as “Establishing Incapacity” while awaiting the verification that indicates the disability will last longer than 90 days. BEM 230A, p 10.

In this case, after sending out the medical documents to Claimant on March 27, 2013, Claimant continued to be required to comply with her work participation program requirements. In fact, the Department relied on Claimant’s failure to attend the work participation program for thirty hours weekly during the weeks beginning March 24, 2013; March 31, 2013; April 7, 2013; and April 14, 2013, to support its finding of noncompliance. Because the Department did not defer Claimant from the work participation program pending verification of the long-term disability, the Department did not act in accordance with Department policy when it relied on Claimant’s noncompliance with the work participation program after the medical deferral documents were sent in closing Claimant’s FIP case.

While the Department focused on the fact that Claimant did not return the completed medical documents until the date of the hearing, the Department conceded that the documents did not have a due date. When verifications are requested from a client, the Department must identify the required verification, how to obtain it *and the due date*. BAM 130 (May 2012), pp 2-3. Because the Department did not identify a due date for the medical verifications, it could not argue that Claimant was untimely in providing the requested verifications.

The Department also noted that the verifications submitted at the hearing did not establish that Claimant was disabled. When a client is denied a deferral, the Department is required to refer the client to the work participation program, in compliance with Department policy. See BEM 230A, pp 15-16. Thus, while the returned verification would affect Claimant’s ongoing obligations with respect to the work participation program, it did not justify the Department’s failure to defer Claimant pending the verification or to notify Claimant of the due date for the verifications.

Reduction of FAP Benefits

Because Claimant’s FIP case was improperly closed, the Department did not act in accordance with Department policy when it reduced Claimant’s FAP benefits by designating her as a disqualified member of her FAP group and removing her from the FAP group size. See BEM 230B (January 2013), p 4.

DECISION AND ORDER


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 did

not act in accordance with Department policy when it closed Claimant's FIP case and reduced her FAP benefits for failure to comply with employment-related activities without good cause.

Accordingly, the Department's decision is 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 May 1, 2013;
2. Remove the FIP and FAP sanctions entered on or about May 1, 2013, from Claimant's record;
3. Begin recalculating Claimant's FAP benefits to include Claimant as a qualified member of her FAP group from May 1, 2013, ongoing;
4. Begin issuing supplements to Claimant for any FIP and/or FAP benefits she was eligible to receive but did not from May 1, 2013, ongoing;
5. Begin processing the medical verifications Claimant delivered to the Department at the hearing, in accordance with Department policy and consistent with this Hearing Decision; and
6. Take each of the preceding steps in accordance with Department policy.


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

Date Signed: 6/7/2013

Date Mailed: 6/7/2013

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:

