

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201327552
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 14, 2013
County: Ogemaw

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 14, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and his Authorized Hearing Representative, (AHR), his wife, [REDACTED]. Participants on behalf of Department of Human Services (Department) included Family Independence Specialist (FIS) [REDACTED] and General Services Program Manager, [REDACTED].

ISSUE

Did the Department properly deny Claimant's application close Claimant's case 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)? |

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). |

2. On March 1, 2013, the Department denied Claimant's application closed Claimant's case due to his non-compliance with employment related activities.

3. On January 25, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On February 4, 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 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.

The Department testimony was that the Claimant was to participate in employment related activities 35 hours per week and that he has failed to do this since being enrolled in the Michigan Works program. Essentially, the Department testified that the Claimant has been non-compliant since the onset of his participation. The Department testified that the Claimant was sent a non-compliance warning on January 5, 2013, scheduling a meeting for January 9, 2013 at 9:00 a.m. The Department testified that the Claimant's AHR [REDACTED] telephoned to say that they received notice of that meeting, the day of the meeting. The Claimant and his AHR agreed to come into the local office for this meeting on January 14, 2013. The Department testified that good cause may or may not have been determined at this "pre-triage meeting," but that on January 14, 2013, the Claimant's AHR emailed to inform the Department they had been sick all weekend long and would not be attending.

Bridges Eligibility Manual (BEM) 233A (2013), pp. 8, 9, provides that the DHS-2444 Notice of Non-compliance state the date/dates of the Claimant's non-compliance and the reason why the Claimant was determined to be non-compliant. In this case, the DHS-2444, Notice of Non-compliance sent January 25, 2013 gives the Claimant notice that he was noncompliant on January 25, 2013 because of "no participation in required activity." That notice scheduled a triage meeting for January 31, 2013. The Claimant testified that this notice was not received until January 31, 2013, after the meeting was to have occurred. The Claimant's testimony in this regard was found to be credible and persuasive, as it was logical and not contested. The Claimant's AHR [REDACTED] testified that she had no [REDACTED] statements verifying that she and the Claimant were sick with the [REDACTED] as she only knew of the triage on the date of the triage.

The Department did not contest that the computer only gives six days for mailing such notices and the Department's workers testified that they could not alter this. Similarly, the Department workers testified that they also could not in-put the date/dates of non-compliance in the computer when promulgating the DHS-2444, Notice of Non-Compliance. The Administrative Law Judge concludes that the DHS-2444, Notice of Non-compliance is insufficient in this case because it does not list the date/dates of non-compliance as BEM 233A pp. 8, 9, requires and is therefore simply not in accordance with departmental policy. Furthermore, it does not comport with due process to simply state at the hearing that the Claimant has failed to participate the required number of hours since the onset of his participation with the program, when the DHS-2444, Notice of Non-compliance indicates something completely different. It is also problematic that the Claimant receives notice of an appointment the date the appointment is to occur. The Department bears the burden of proving, by a preponderance of the evidence that its actions are in accordance with departmental policy.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department

- | | |
|---|---|
| <input type="checkbox"/> properly denied Claimant's application | <input type="checkbox"/> improperly denied Claimant's application |
| <input type="checkbox"/> properly closed Claimant's case | <input checked="" type="checkbox"/> improperly closed Claimant's case |

for: AMP FIP FAP MA SDA CDC.

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 decision is AFFIRMED REVERSED for the reasons stated 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. Initiate action to reinstate the Claimant's benefits back to the closure date, and
2. Initiate action to issue the Claimant any supplements he may thereafter be due, and
3. If the Claimant is again found to be in non-compliance with employment related activities, identify the date/dates of the actions or failure to act, as well as the actions or failure to act, which would constitute the Claimant's non-compliance in accordance with BEM 233A, pp. 8, 9.

/s/ _____
Susanne E. Harris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 20, 2013

Date Mailed: March 22, 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.

201327552/SEH

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

SEH/tb

cc:

