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

## IN THE MATTER OF:



Reg. No.:	201335046
Issue No.:	1038
Case No.:	
Hearing Date:	April 17, 20
County:	Macomb 20

17, 2013 mb 20

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 hearing was held on April 17, 2013, from Lansing, Michigan. Participants on behalf of Claimant included Participants on behalf of Department of Human Services (Department) included Case Manager and PATH Liason,

## ISSUE

Did the Department properly and deny Claimant's application is close Claimant's case for:

$\times$	Family	Indepen	dence	Program	(FIP)?

Food Assistance Program (FAP)?

Medical Assistance (MA)?

Adult	Medical A	Assistance	(AMP)?
State	Disability	Assistance	e (SDA)

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:



Family Independence Program (FIP). Food Assistance Program (FAP). Medical Assistance (MA).

- Adult Medical Assistance (AMP). State Disability Assistance (SDA). Child Development and Care (CDC).
- 2. On April 1, 2013, the Department denied Claimant's application Closed Claimant's case due to her non-compliance with employment related activities.

- On February 27, 2013, the Department sent
  Claimant
  Claimant's Authorized Representative (AR)
  notice of the
  denial.
  Closure.
- 4. On March 13, 2013, Claimant filed a hearing request, protesting the  $\Box$  denial of the application.  $\boxtimes$  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
adn	niniste	ered by	/ the Depa	artment pu	irsuant f	to N	1CL 400.10, e	et se	q.				

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.

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Bridges Eligibility Manual (BEM) 233A (2013), pp. 8, 9, provide 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, there was no DHS-2444, Notice of Non-compliance in evidence. The Department testified that the Claimant was sent the DHS-2444, Notice of Non-compliance, from Lansing, the evening of February 27, 2013. The notice identified that the Claimant was non-compliant on February 27, 2013, though the Department testified that it was February 25, 2013 that was the actual date of non-compliance, as that is when the Claimant failed to submit job search logs. The notice did schedule a triage appointment for March 7, 2013, to afford the Claimant an opportunity to establish good cause for her non-compliance. The Claimant testified that she did not receive this notice until the day of the triage appointment, after the appointment was over and that is why she did not attend the triage appointment.

The DHS-2444, Notice of Non-compliance is a critical piece of evidence which is not in the record. The Department's testimony regarding the document indicates that the date of non-compliance is listed as being February 27, 2013 when it is actually February 25, 2013, which would not be in accordance with departmental policy. Furthermore, the Claimant maintains that this document was not received until after the triage appointment and the document is not in evidence for the Administrative Law Judge to examine. As such, the Administrative Law Judge determines that the evidence does not establish that the Department was acting in accordance with its policy when taking action to close the Claimant's FIP case.

Based upon the above Findings of Fact and	Conclusions of Law, and for the reasons
stated on the record, the Administrative La	w Judge concludes that the Department
properly denied Claimant's application	improperly denied Claimant's application
	$\boxtimes$ improperly closed Claimant's case for:
	DC.

## **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 indicated did act properly.

Accordingly, the Department's  $\square$  AMP  $\boxtimes$  FIP  $\square$  FAP  $\square$  MA  $\square$  SDA  $\square$  CDC decision is  $\square$  AFFIRMED  $\boxtimes$  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 FIP case back to the date of closure, and

2. Initiate action to issue any supplements that the Claimant may thereafter be due.

/s/

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

Date Signed: 4/19/13

Date Mailed: 4/19/13

**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 <u>MAY</u> 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

#### SEH/tb

CC:

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