

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

**IN THE MATTER OF:**



Reg. No.: 201340119  
Issue No.: 1005  
Case No.: [REDACTED]  
Hearing Date: May 23, 2013  
County: St Clair

**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 May 23, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included PATH Coordinator, [REDACTED] and Family Independence Specialist, [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 April 1, 2013, the Department  denied Claimant's application  closed Claimant's FIP case due to her failure to submit the requested verification..

3. On February 22, 2013, the Department sent  
 Claimant       Claimant's Authorized Representative (AR)  
notice of the       denial.       FIP closure.
4. On April 4, 2013, Claimant filed a hearing request, protesting the  
 denial of the application.       FIP closure.

### **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.

Procedural History: The Claimant's hearing was scheduled for May 21, 2013 and she failed to appear for that hearing. On May 22, 2013, Executive Director of the Michigan Administrative Hearing System, Michael Zimmer, issued an Order of Dismissal based on the Claimant's failure to appear at the hearing. Also, on May 22, 2013, the Michigan Administrative Hearing System received the Claimant's request for an adjournment and three-way telephone hearing, stating that she is seriously ill with [REDACTED]. On May 23, 2013, Supervising Administrative Law Judge [REDACTED] issued an Order Vacating the Dismissal and Order to Schedule Matter for Hearing. Later that day, the undersigned Administrative Law Judge conducted the hearing.

The uncontested testimony in this case was that the Claimant has been reporting, for months now, that she has issues with people stealing her mail. The Department testified that the Claimant has asserted that she had problems with her mail for months if not a year. The Claimant's testimony was that she did not receive many of the forms the Department sent to her, including the DHS-2444, Notice of Non-compliance and the DHS-3503, Medical Determination Verification Checklist. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). As the Claimant's address has, at all times relevant to this issue been [REDACTED] the evidence is insufficient to rebut the presumption that the Claimant also received the documents in evidence that the Department sent to her. Upon a re-review of the record, however, the Administrative Law Judge determines that there is no PATH appointment notice in evidence. As the Claimant contests receiving the majority of the documents sent to her, the Administrative Law Judge determines that the evidence does not establish that the Claimant was sent a PATH appointment.

The DHS-2444, Notice of Non-compliance says that on February 22, 2013, the Claimant was non-compliant because of "No participation in required activity." 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, the DHS-2444, Notice of non-compliance, sent February 22, 2013, gives the Claimant notice that she was noncompliant on February 22, 2013 because of "no participation in required activity." Therefore, the evidence is insufficient to establish what act or failure to act constitutes the Claimant's non-compliance. Particularly and curiously as February 22, 2013 is past the date for the Claimant to submit her verification.

During the hearing, the Claimant's testimony seemed unsure and confused. She often times referenced events which occurred in 2012 that were not pertinent to the issues before the Administrative Law Judge. Furthermore, it was not contested that the Claimant did not submit the required medical verification to the department until long after her she failed to attend her triage and her case closed.

Bridges Eligibility Manual (BEM) 230A (2013) p. 1, requires that each work eligible individual (WEI) in the FIP group to participate in [REDACTED] or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A p. 9 instructs Department workers to defer, for 90 days, Claimants who assert that they are disabled or unable to participate in PATH, and to require the Claimant submit verification of such

disability, so that it can be submitted to MRT. In this case, there was nothing to submit to the MRT, as the Claimant failed to provide any recent verification of her disability. BEM 230A p. 13 instructs that when the MRT determines that the Claimant is work ready with limitations and then becomes non-compliant, without good cause, with PATH that the penalty outlined in BEM 233A p. 6 apply, which is FIP closure. The evidence in this case does not establish that the Claimant was determined to be work ready with limitations by the MRT, nor does the evidence establish what the Claimant did or failed to do that constitutes the non-compliance. As such, the first penalty for non-compliance cannot stand.

The evidence does establish that the Claimant failed to submit the required documentation to verify her disability, even though the Department sent the request for verification twice and granted her a courtesy extension to do so. Bridges Assistance Manual (BAM) 130 (2012) p. 5 provides that verifications are considered to be timely if received by the date they are due. BAM 130 p. 5 instructs Department workers to send a negative action notice when the client indicates refusal to provide a verification, or when the time period given has elapsed and the client has not made a reasonable effort to provide it. In this case, the Administrative Law Judge determines that the time period to submit the verification had lapsed and the Claimant had made no reasonable effort to provide the verification. As such, the Administrative Law Judge concludes that the Department has met its burden of establishing that they were acting in accordance with policy when taking action to close the Claimant's FIP case for failure to submit the required verification.

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

- properly denied Claimant's application       improperly denied Claimant's application
- properly closed Claimant's case                       improperly closed Claimant's case for:
- AMP  FIP  FAP  MA  SDA  CDC.

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

- properly denied Claimant's application       improperly denied Claimant's application
- properly closed Claimant's case                       improperly sanctioned 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 finds that the Department  did act properly, regarding the closure.  did not act properly when imposing the sanction.

Accordingly, the Department's  AMP  FIP  FAP  MA  SDA  CDC decision is  AFFIRMED in part and  REVERSED in part.

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 remove the 3 month sanction imposed on the Claimant's FIP case.

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

Date Signed: 5/29/13

Date Mailed: 5/29/13

**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 **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

SEH/tb

cc:

