

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-68988
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: October 30, 2013
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 30, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Case Manager, [REDACTED] and PATH Case 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"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

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 received: FIP FAP MA AMP SDA CDC DSS SSP benefits.
2. On July 1, 2012, the Department closed Claimant's case due to non-compliance with employment related activities.
3. On June 15, 2012, the Department sent Claimant its decision.
4. On September 7, 2013, Claimant filed a second hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and 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, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

The Claimant testified that she never received notice of her first requested hearing which was to have occurred on [REDACTED]. She failed to appear and her hearing request was dismissed on [REDACTED]. The Claimant asserted that she never received the Order of Dismissal and she called the Michigan Administrative Hearing System (MAHS) and was told by their staff that both the Notice of Hearing and Order of Dismissal were returned as undeliverable. During the hearing, the Administrative Law Judge did check with the MAHS administrative staff and it was confirmed that both the Notice of Hearing and Order of Dismissal were returned to MAHS as undeliverable. The Claimant's address has remained the same at all times relevant to this matter.

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). Based on the statements of the Claimant and the MAHS staff the evidence is sufficient to rebut the presumption that the Claimant received the Notice of Hearing and Order of Dismissal. Therefore, the Administrative Law Judge determines that the Claimant is entitled to her hearing.

The uncontested facts of this case are that the Claimant had an appointment with the JET program at 8:45 a.m. on [REDACTED] and she failed to appear. On [REDACTED], the Claimant was seen in the [REDACTED] for a [REDACTED] and she telephoned the Department to inform her worker of such. On [REDACTED] the Claimant's worker sent the Claimant a DHS-100, Quick Note informing the Claimant that she would have to provide documentation of her [REDACTED]. On [REDACTED], the Claimant submitted documentation of her [REDACTED] visit for a [REDACTED]. The Claimant did not attend her triage on [REDACTED] and the Department determined that the Claimant had no good cause for her non-compliance on [REDACTED]. During the hearing, the Claimant said she called her case worker to tell her that she could not attend the appointment on [REDACTED] because she was not feeling well. When she went to the [REDACTED] the next day, she was told the [REDACTED] she was carrying was [REDACTED] and that she essentially [REDACTED] the day before. The [REDACTED] submitted by the Claimant also indicate that she was prescribed [REDACTED] upon [REDACTED] from the [REDACTED].

Bridges Eligibility Manual (BEM) 233A (2013) p. 4-6, provides that good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. Good cause includes the following:

- **Illness or Injury** The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.
- **Unplanned Event or Factor**
- Credible information indicates an unplanned event or factor which likely

- prevents or significantly interferes with employment and/or self-sufficiency-
- related activities. Unplanned events or factors include, but are
- not limited to, the following:
- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

In this case, the Administrative Law Judge concludes that the Department erroneously determined that the Claimant had no good cause for her non-compliance. Having a [REDACTED] on or about the time of her appointment constitutes a debilitating illness as well as an unplanned event or factor. As such, the Administrative Law Judge concludes that when the Department took action to close the Claimant's FIP case, the Department was acting not in accordance with its policy.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it took action to close the Claimant's FIP case.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate action to reinstate the Claimant's FIP case, and
2. Initiate action to issue the Claimant any supplements she may thereafter be due.

/s/

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

Date Signed: 11/4/13

Date Mailed: 11/4/13

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

SEH/tb

cc:

