

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

IN THE MATTER OF:



Reg. No.: 2013-13463
Issue Nos.: 1038, 3008, 6019
Case No.: [REDACTED]
Hearing Date: February 27, 2013
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

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 February 27, 2013, at Detroit, Michigan. Participants on behalf of Claimant included the Claimant and her Authorized Representative, [REDACTED], [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager.

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 checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input checked="" 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 checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input checked="" type="checkbox"/> Child Development and Care (CDC). |

2. On May 1, 2012, the Department denied Claimant's CDC application based on a determination that she was not working and did not have a need for childcare services.
3. On September 18, 2012, the Department
 denied Claimant's application closed Claimant's FIP and FAP benefits due to a determination that she failed to establish good cause for her nonparticipation in work-related activities from August 6-17, 2012.
4. On September 18, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure only.
5. On September 28, 2012, 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, Rule 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, Rule 400.3001 through Rule 400.3015.

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, Rule 400.5001 through Rule 400.5015.

Additionally, the following findings of fact and conclusions of law are entered in this case. The Claimant failed to appear for work-related activities for the two weeks of August 6-17, 2012. On September 27, 2012, the Department conducted a triage conference to review Claimant's participation in work-related activities. The Claimant,

the Work First representative, and the Department appeared at the triage conference. Dept. Exh. 1, p. 4.

At the triage Claimant failed to produce information regarding her absence. *Id.*

The Department determined that Claimant had no good cause for her failure to participate, and imposed a second-time penalty of six months without benefits. *Id.*, pp. 9, 20. However, the Claimant never incurred a first-time violation.

Bridges Eligibility Manual (BEM) 233A, "Failure to Meet Employment and/or Self-Sufficiency-Related Requirements: FIP," is the applicable Department policy in this case. BEM 233A requires the Department to hold a triage conference to determine if good cause existed for the customer's failure to participated in work-related activities. Department of Human Services Bridges Eligibility Manual (BEM) 233A (2012), pp. 7-8. The triage must be conducted even if the customer fails to appear for the triage. The Department must make a decision based on the best available information at the triage. *Id.*

It is found and determined that the Department followed its policy and procedure in this case with regard to its finding of no good cause. The Claimant's failure to appear was documented by the Work First program. The Department conducted a triage which gave her an opportunity to explain why she did not appear from August 6-17, 2012, and determined that no good cause existed to explain the absence. At the administrative hearing as well, Claimant presented no evidence to prove she had good cause for her absence.

Accordingly, it is found and determined that the Department acted correctly in this case with regard to Claimant's failure to participate in work-related activities from August 6-17.

The next question regarding FIP and FAP benefits in this case is whether the Department acted correctly in imposing a second-time, six-month penalty on Claimant for her failure to participate in work-related activities. There is nothing in the record to establish that this was Claimant's second violation. At the hearing the Claimant testified that this was her first violation. BEM 233A states that a second-time penalty cannot be imposed unless there has been a first offense. BEM 233A, p. 6.

Accordingly, the Department is reversed in this case with regard to the penalty it imposed on Claimant, and the penalty shall be reduced to a first-time penalty.

The second program issue in this case is Child Care and Development benefits. It is found and determined that Claimant failed to present information to the Department to verify that she needed childcare services in order to work or perform other work-related activities. At the hearing Claimant presented employment and income records for September 23, 2011-December 9, 2011. Clmt. Exh. 2, p. 4.. It is found and determined

that these records are from a previous year and do not reflect Claimant's income as of the time of her application for CDC in May, 2012.

It is found and determined that the Claimant's failure to produce proof of work or work-related activities made it impossible for the Department to determine what CDC benefits, if any, she was entitled to. Accordingly, the Department acted properly in denying CDC benefits to Claimant. Department of Human Services Bridges Administrative Manual (BAM) 130 (2012).

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

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.


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 SHALL INITIATE WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER, THE FOLLOWING:

1. Change Claimant's FIP sanction from a second-time to a first time sanction.
2. Delete references to a second-time sanction from Claimant's files with the Department.
3. Provide retroactive and ongoing FIP and FAP benefits as appropriate at the benefit levels to which Claimant is entitled.
4. All steps shall be taken in accordance with Department policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 1, 2013

Date Mailed: March 1, 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

JL/tm

cc:

