

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201319083
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 18, 2013
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's boyfriend. Participants on behalf of Department of Human Services (Department) included [REDACTED] Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for failure to comply with employment-related activities without good cause?

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). Adult Medical Assistance (AMP).
 - Food Assistance Program (FAP). State Disability Assistance (SDA).
 - Medical Assistance (MA). Child Development and Care (CDC).
 - Direct Support Services (DSS).

2. The Department closed Claimant's FIP case, effective December 1, 2012, due to failure to comply with employment-related activities without good cause.

3. On November 19, 2012, the Department sent Claimant notice of the Department's actions.
4. On December 19 and 20, 2012, Claimant filed a hearing request, protesting the Department's actions.

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 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.

Direct Support Services (DSS) is administered by the Department pursuant to MCL 400.57a, et. seq., and Mich Admin Code R 400.3603.

Additionally, on November 19, 2012, the Department sent Claimant a Notice of Case Action advising her that, based on her noncompliance with employment-related activities without good cause, her FIP case would close for a minimum three-month period beginning December 1, 2012.

Closure of FIP Case

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (November 1, 2012), p 1; BEM 233A (November 1, 2012), p 1. Failing or refusing to comply with assigned activities or participate in employment and/or self-sufficiency-related activities without good cause constitutes a noncompliance with FIP-required activities justifying closure of a client's FIP case. BEM 233A, pp 1-2.

In this case, as part of her activities in the work participation program, Claimant was required to attend the WorkFirst program every Monday at 8:30 and submit documentation concerning her hours of participation. Claimant testified that she was unable to get a babysitter for her child on the morning of Monday, November 19, 2012, and, after she caught the two buses to get to WorkFirst, she arrived at 11:00 am. When she arrived, the WorkFirst worker told her she was too late and her case was being placed in triage.

On November 19, 2012, the Department sent Claimant a Notice of Noncompliance, advising her that she had failed to comply with employment-related activities and scheduling her for a triage November 26, 2012. At the triage, the Department is required to consider whether Claimant had good cause for her noncompliance. BEM 233A, pp 7, 8. Good cause is a valid reason for failing to participate in employment and/or self-sufficiency-related activities based on factors beyond the control of the noncompliant person. BEM 233A, pp 3-4. Good cause is based on the best information available during the triage and prior to the negative action date and may be verified by information already on file with the Department or the work participation program. BEM 233A, p 8.

In this case, Claimant attended the triage and contended that she had good cause for her noncompliance because she did not have child care for her child. Department policy provides that the lack of child care constitutes good cause when (i) the client has requested child care services from the Department, the work participation program, or other employment services provider *prior* to case closure for noncompliance **and** (ii) child care is needed for an eligible child but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. BEM 233A, p 4. Good cause is also available when credible information indicates an unplanned event or factor

which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. BEM 233A, p 5.

The evidence in this case showed that Claimant relied on her brother to watch her child. There was no evidence that Claimant requested child care services from the Department or the WorkFirst program prior to the case closure. Because Claimant was aware of her childcare dilemma on Friday preceding the November 19, 2012, WorkFirst appointment, the issue was not unanticipated. Further, the WorkFirst notes, which the Department testified were maintained in the ordinary course of business, showed that Claimant had been noncompliant with the WorkFirst program the week prior to the week of November 19, 2012, that she had signed a reengagement letter acknowledging that she was required to participate in all future meetings or face case closure, and that she was advised to contact WorkFirst if she needed supportive services. Under these facts, the Department acted in accordance with Department policy when it concluded that Claimant did not establish good cause for her noncompliance based on her lack of childcare.

At the hearing, Claimant also explained that she had to take two bus transfers and could not get to WorkFirst in a timely manner. However, Claimant testified that transportation was generally provided to her but was not available on November 19, 2012, because she was not available to attend WorkFirst at the scheduled time. Under these facts, the transportation issues did not constitute good cause for Claimant's noncompliance.

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 acted in accordance with Department policy when it concluded that Claimant did not have good cause for her noncompliance and closed her FIP case for a three-month minimum. See BEM 233A, p 6.

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, for the reasons stated above and on the record, the Department's AMP FIP FAP MA SDA CDC DSS decision is AFFIRMED REVERSED.



Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 3/25/2013

Date Mailed: 3/25/2013

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

ACE/hw

cc:

