

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-31041
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 27, 2013
County: Wayne (82-19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 27, 2013 from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment and/or self-sufficiency-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 was an ongoing FIP benefit recipient and was required to participate in employment and/or self-sufficiency related activities.
2. Claimant failed to participate in employment and/or self-sufficiency-related activities without good cause on February 5, 2013.
3. On February 7, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective March 1, 2013, based on a failure to participate in employment and/or self-sufficiency-related activities without good cause.

4. On February 7, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on February 15, 2013.
5. On February 15, 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency-related activities.
6. On February 19, 2013, Claimant requested a hearing disputing the FIP benefit termination.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 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 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACCS, Rule 400.3151 through Rule 400.3180.

The present case involves a FIP benefit termination, effective March 1, 2013, based on Claimant's failure to attend employment and/or self-sufficiency-related activities without good cause on February 5, 2013. Claimant did attend the triage appointment on February 15, 2013; however, the Department found no good cause for Claimant's failure to attend the employment and/or self-sufficiency-related activities.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2013), p. 1. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and obtain employment. BEM 230A, p. 1. PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A (January 2013), p. 7. Good cause is determined during triage. BEM 233A, p. 7. 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 and must be verified. BEM 233A, p. 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, pp. 3-5.

In this case, the Department testified that Claimant contacted it in November 2012 seeking a deferral from employment and/or self-sufficiency-related activities based on a physical impairment. The Department scheduled an appointment with Claimant in order for him to bring in medical documentation to show proof of a physical impairment. In December 2012, Claimant called a few times and rescheduled his appointments with the Department. On January 8, 2013, the Department held an appointment with Claimant. Claimant provided a Medical Needs – JET document (DHS-54-E) (Exhibit 1) and other medical documents dating back to September 2012. The Department credibly testified that the medical documents did not show Claimant had any physical impairments that would not allow him to participate in employment-related activities. Moreover, the Department needed updated medical records and scheduled a new appointment date for January 15, 2013. Claimant failed to attend the appointment on January 15, 2013, and the Department received no messages from Claimant that he was unable to attend. Claimant testified that he could not recall specifically whether he attended the January 15, 2013, appointment with the Department. Based on Claimant's failure of attending and/or rescheduling appointments and not providing proof of a physical impairment, the Department found that Claimant failed to participate in employment and/or self-sufficiency-related activities and scheduled Claimant for a triage appointment on February 15, 2013.

Persons with a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred for up to three months. BEM 230A (January 2013), p. 9. [The Department] verifies the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs, or DHS-54E, Medical Needs - PATH, or other written statement from an M.D./D.O. BEM 230A, p. 9. [The Department] sets the medical review date for a period not expected to exceed three months. BEM 230A, p. 9.

During the triage, Claimant provided the same Medical Needs – JET document (DHS-54-E) (Exhibit 1) that he did at his appointment on January 8, 2013. Claimant testified that he suffered a shoulder injury and is unable to participate in employment and/or self-sufficiency-related activities because he is unable to lift/carry less than 10 lbs as indicated in the DHS-54-E document. Claimant did not provide any new updated medical records at the triage appointment. However, the DHS-54-E document provided by Claimant's doctor indicates that he can work at a usual occupation and can work at any job. Furthermore, the form does state that Claimant's physical impairment is not expected to last more than 90 days. Moreover, the form does indicate that Claimant should never lift/carry less than 10 lbs., but nowhere is there evidence that Claimant cannot participate in employment and/or self-sufficiency-related activities based on a short-term incapacity. Also, Claimant did not provide any new medical documentation that would lead to a different conclusion. Claimant failed to provide sufficient proof of a short-term incapacity. Thus, Claimant failed to establish any good cause for his failure to participate in employment and/or self-sufficiency-related activities.

Based on the forgoing evidence, the Department established that Claimant failed to participate in employment-related activities without good cause. Therefore, the Department acted in accordance with Department policy when it closed Claimant's FIP case. Because this was Claimant's second noncompliance, the Department acted in accordance with Department policy when it closed Claimant's case for a six-month minimum. BEM 233A, pp. 1 and 6.

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

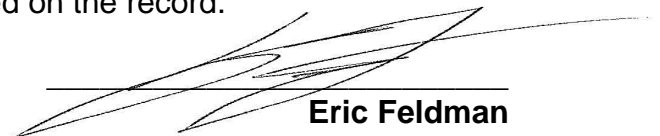
- properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA.

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 decision is
 AFFIRMED REVERSED for the reasons stated on the record.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 2, 2013

Date Mailed: April 2, 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

EJF/pf

cc:

