

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201334991
Issue No.: 1038; 3029
Case No.: [REDACTED]
Hearing Date: April 11, 2013
County: Washtenaw

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 April 11, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Family Independence Specialist (FIS) [REDACTED] and Family Independence Manager (FIM) [REDACTED].

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for and reduce the Claimant's 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 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 type="checkbox"/> Child Development and Care (CDC). |

2. On April 1, 2013, the Department denied Claimant's application closed Claimant's FIP case and reduced the Claimant's FAP benefits due to her and her [REDACTED] non-compliance with employment related activities.

3. On March 4, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure of the FIP and the reduction in FAP.
4. On March 11, 2013, Claimant filed a hearing request, protesting the
 denial of the application. closure of the FIP case and reduction of the FAP
allotment.

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.

The uncontested facts are as follows: The Claimant and her [REDACTED] were sent DHS-4785, PATH Appointment Notices, scheduling appointments for them to attend PATH on February 25, 2013 and neither the Claimant nor her [REDACTED] attended. On March 4, 2013, the Department then sent the Claimant and her [REDACTED] a DHS-2444, Notice of Non-compliance indicating that they were both non-compliant on March 1, 2013 because they had no initial contact with MWA. This notice scheduled a triage appointment for March 11, 2013 and only the Claimant attended that appointment as her [REDACTED] was working at the time. The Department found no good cause for their non-compliance at the triage. Before the Claimant failed to appear at the February 25, 2013 appointment, she telephoned FIS Swanger 3 times to report that she could not attend and left FIS [REDACTED] messages, yet he failed to return any of those telephone calls. The Claimant had already deposited money to be a chaperone for her [REDACTED] activity and did not want to forfeit the money, so she telephoned FIS [REDACTED] to tell him as much and he never did return her telephone calls. Furthermore, [REDACTED], the Claimant's PATH case worker, informed the Claimant that her [REDACTED] works sufficient hours that neither she nor her [REDACTED] would even be required to participate in PATH.

When the Administrative Law Judge ask the FIS and FIM present at the hearing how many hours the Claimant's [REDACTED] works, they said they did not know. When asked whether the Claimant's [REDACTED] failure to attend PATH could be excused for good cause because he was working, the Department replied in the affirmative. When asked why the Department found no good cause for the Claimant's [REDACTED] the workers inferred it was immaterial, as it is only one instance of non-compliance and the Claimant was non-compliant none-the-less. The Administrative Law Judge finds that the triage afforded the Claimant's [REDACTED] was not at all meaningful, particularly if the Department can not even state the numbers of hours a week the Claimant's [REDACTED] works. Bridges Eligibility Manual (BEM) 233A (2013), pp. 3, 4 provides that being employed 40 hours a week is good cause for non-compliance with employment related activities.

BEM 233A pp. 8, 9, provides 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 March 4, 2013, gave the Claimant notice that she was noncompliant on March 1, 2013 because of "no initial contact with MWA." The DHS-2444 Notice of Non-compliance is insufficient to give notice of the date of non-compliance. It is not contested that the Claimant's PATH worker told her that her participation was not necessary. Lastly, the Claimant's FIS failed to return the Claimant's telephone calls when the Claimant telephoned to report that she could not make the appointment scheduled for her, which is exactly what the DHS-4785, Appointment Notice instructs her to do. If the information from [REDACTED] was erroneous and the Claimant was actually required to attend, and had the Claimant's telephone calls been returned, the FIS could have explained to the Claimant that she had additional dates that she could have attended. The Administrative Law Judge therefore finds that when the Department took action to close the Claimant's FIP case and sanction her FAP case, the Department was not acting in accordance with its policy.

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.

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, 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.

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 reinstate the Claimant's FIP case back to the date of closure, and
2. Initiate action to remove the sanction from the Claimant's FAP case back to the date of the sanction, and
3. 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: 4/15/13

Date Mailed: 4/16/13

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:

