

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-3654
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: January 9, 2013
County: Macomb (50-20)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 January 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [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"/> Adult Medical Assistance (AMP)? |
| <input 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. On July 31, 2012, Claimant's FIP case was closed as part of a sanction for failure to attend Jobs, Education and Training (JET) program work participation appointments.
2. Claimant filed a hearing request regarding this closure and later attempted to withdraw this hearing request. The Department failed to provide a copy of this

withdrawal and Michigan Administrative Hearings System did not have an approved withdrawal.

3. On September 10, 2012, Claimant re-applied for FIP benefits in Macomb County.
4. On September 20, 2012, the Department issued a denial notice based on a three-month sanction against Claimant for failure to attend work participation activities.
5. On October 4, 2012, Claimant filed a hearing request regarding the FIP denial notice sent on September 20, 2012. In Claimant's hearing request, she indicated she wished to have a hearing on the original July 31, 2012, case closure.

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 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, Rule 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, Rule 400.5001 through Rule 400.5015.

In the instant case, Claimant was sanctioned for failure to fulfill work participation and her FIP benefits terminated on July 31, 2012. Claimant filed a hearing request to protest this case action and later attempted to withdraw the hearing request. Claimant filed a new application for FIP benefits in a new county. The Department denied the new application based upon a three-month sanction still in effect against Claimant and her group. Claimant filed a hearing request to protest this denial and to revive her previously withdrawn hearing request.

The first issue is the previous case action taken by the Department on July 31, 2012. Claimant was served notice of this case action. Claimant testified she filed a hearing request and admitted she withdrew this hearing request. Claimant now insists her hearing withdrawal was done under duress and she only did so in order to get her benefits reinstated in her new county. At hearing, Claimant presented a copy of the hearing withdrawal she had signed. The hearing withdrawal was not signed or approved by Michigan Administrative Hearing System. In addition, on the withdrawal form she checked "other" and indicated she was homeless, noted her hearing request had been filed timely yet her benefits had been closed, indicated the worker wrongly found income of \$1,223 and indicated she wanted the case transferred.

Upon review of the hearing request, this Administrative Law Judge finds the hearing request withdrawal dated August 30, 2012, regarding a hearing request date of July 8, 2012, is invalid and, therefore, the original hearing request remains in effect.

The Department originally closed Claimant's FIP case due to non compliance with work participation activities. The Department indicated on the hearing summary that Claimant and her husband missed appointments on February 21, 2012, June 4, 2012, and July 18, 2012. However, the notices of non compliance submitted indicate the Department sent notices on May 24, 2012, and June 18, 2012, for missed work participation appointments for both June 4, 2012, and June 13, 2012. It should be noted these actions were taken by the Department's Greystone district office and not by the Department's Warren district office.

Claimant and her husband testified when they first applied for benefits that they were, in fact, homeless. They, in fact, failed to have an address other than the Department address listed or a homeless shelter address until they moved into a house some time in April 2012. Claimant testified she had been sent notices prior to the ones for the June 4, 2012, and June 13, 2012, appointments to attend Work First. Claimant testified that she and her husband attempted to attend the first appointment in February 2012

but were turned away because they had their children with them. Claimant testified they were told to talk to the Department regarding their daycare needs. Claimant testified she did inform the Department of the need for daycare for her children. At hearing, no evidence was submitted by the Department to rebut this testimony. Further, Claimant felt she and her husband were still unable to attend the program due to housing problems. Specifically, the home they lived in did not have running water. Claimant and her husband did testify they were able to activate electricity with Detroit Edison. Claimant and her husband also testified that one of them was seeking Social Security benefits.

On July 18, 2012, Claimant and her husband attempted to meet with the Department worker regarding the missed appointments as requested by the July 9, 2012, notice of non compliance. They were unable to meet with the worker. Claimant testified she arrived for the appointment and was left out in the lobby and nobody would see her.

On July 25, 2012, Claimant and her husband testified they met with the Department and indicated they were homeless. The Department indicated that, according to Claimant, they were not, in fact, homeless and, therefore, had no good cause.

After reviewing the evidence and testimony made available, this Administrative Law Judge makes the following findings:

1. Claimant and her husband were, in fact, homeless until they relocated to a home in April 2012.
2. As of April 2012, when Claimant and her husband secured a residence, they would not be considered homeless according to policy. While Claimant's residence may not have had running water, this in and of itself would not render them homeless, as evidenced by the fact that they remained in the residence for several months and secured electrical service in their name for the property.
3. Claimant and her husband have established they were not provided assistance with daycare as requested by them according to their un-rebutted testimony in order to allow attendance at and participation in work activities.

Based upon the above findings, this Administrative Law Judge finds the Department failed to demonstrate the negative action and subsequent sanction were done in accordance with policy, specifically by failing to address daycare needs as requested by Claimant and her husband according to BEM 233A, p. 4 (May 2012). The Department presented no evidence to demonstrate consideration of daycare needs when determining no good cause and implementing a case sanction. Therefore, this case action must be removed and the sanction removed.

The second issue Claimant raises is the new case action taken by the Department on her reapplication for FIP benefits. The Department, at the time of this case action, properly determined a sanction was in place and benefits were not available. However,

since the original case action resulting in the sanction utilized to deny this application has been found to be invalid, this issue is no longer necessary to address.

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 IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate removal of the FIP sanction implement on July 31, 2012;
2. Reinstate FIP benefits if otherwise eligible and supplement back to date of loss of benefits.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 14, 2013

Date Mailed: January 14, 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

JWO/pf

cc:

