

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201338440
Issue No.: 1038; 2039
Case No.: [REDACTED]
Hearing Date: May 7, 2013
County: Macomb 12

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 May 7, 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].

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)? |

Did the Department properly deny Claimant's application sanction Claimant's case for:

- | | |
|--|---|
| <input 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 May 1, 2013, the Department
 denied Claimant's application closed Claimant's FIP case
due to non-compliance with employment related activities.
3. On May 1, 2013, the Department
 denied Claimant's application sanctioned Claimant's FAP case
due to non-compliance with employment related activities.
4. On March 20, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. FIP closure and FAP sanction.
5. On April 2, 2013, Claimant filed a hearing request, protesting the
 denial of the application. FIP closure and FAP sanction.

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.

In this case, the FIS presenting the case for the Department was not the Department worker who took action in the case. Therefore, the Claimant's testimony was uncontested. The Claimant testified that she did receive the DHS-4785, PATH Appointment Notice scheduling an appointment for March 11, 2013 and she was in the process of being [REDACTED] at that time and she misplaced the notice. The Claimant further testified that she repeatedly telephoned her case worker and left messages to inform her that she misplaced the notice and needed to know when the appointment was, but she received no return telephone call. The Claimant further testified that she even telephoned Michigan Works, but she was told that they could not find an appointment date for her.

It was at that point that the Administrative Law Judge questioned the Claimant as to why it was that she did not attend the triage, and the Claimant responded that she never received the notice as it went to the address the Department had for her. She has been [REDACTED] since the [REDACTED] and currently, all of her DHS [REDACTED] is actually being sent to the local office and her worker's supervisor, [REDACTED] [REDACTED] knows this. The Claimant requested that this hearing decision be sent to the local office.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). As the Claimant's uncontested testimony is that her mailing address has actually changed to the address of her [REDACTED] [REDACTED] [REDACTED] the evidence is sufficient to rebut the presumption that the Claimant received the DHS-2444 Notice of Non-compliance.

Bridges Eligibility Manual (BEM) 233A (2013) p. 7, provides that PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. In this case, the Department did schedule a triage, however, the Department sent the notice to the Claimant's address where she was no longer resided and, based on the Claimant's testimony, her Department worker and that worker's supervisor knew or should have known that as she telephoned several times to inform her that she was being [REDACTED] and as she also directed that her [REDACTED] come to the [REDACTED] [REDACTED]. Therefore, the Claimant had no proper notice of her triage and never had an opportunity to establish good cause. The Administrative Law Judge therefore concludes that when the Department took action to close the Claimant's FIP 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 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 action to reinstate the Claimant's FIP case and remove the Claimant's FAP sanction back to May 1, 2013, and
2. Initiate action to issue the Claimant any supplement she may thereafter be due.

/s/ _____
Susanne E. Harris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 5/8/13

Date Mailed: 5/10/13

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.

201338440/SEH

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:

