

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-4948
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: December 11, 2012
County: Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 December 11, 2012, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and [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. Claimant applied for benefits received benefits 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). |

2. On September 1, 2012, the Department
 denied Claimant's application closed Claimant's case
due to failure to attend the work first orientation without good cause.
3. On August 18, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. All notices sent to the Claimant were sent to the correct address. Exhibits 1 – 4.
5. The Claimant did not attend the triage scheduled for August 28, 2012. The Notice of Non Compliance was dated August 18, 2012.
6. The Claimant did not attend the triage.
7. A notice of Case Action was sent to the Claimant on August 18, 2012 closing the claimant's FIP Cash Assistance as of September 1, 2012.
8. The Claimant provided medical information to the Department around September 19, 2012 after the triage and after the FIP case was closed.
9. On October 9, 2012, Claimant filed a hearing request, protesting the
 denial of the application. closure of the FIP case.

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)

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 AACR, 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.

Additionally, in this case the Claimant testified that she did not receive either Notice of Appointment assigning her to attend the work first program on July 9, 2012 and July 30, 2012. Exhibit 1 and 4. The notice was sent to the Claimant at her proper address. The Claimant also testified that she did not receive the Notice of Non Compliance dated August 18, 2012 scheduling a triage for August 28, 2012. Exhibit 2. The Notice of Non Compliance was sent to the Claimant at the correct address. The Notice of Case Action dated August 18, 2012 was sent to the Claimant at the correct address and was received by the Claimant causing the claimant to request a hearing. The Claimant also received other notices sent to her by the Department including a Notice of Case Action dated October 9, 2012 affecting changes to her food assistance.

It is well-established law that 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). The Claimant did not articulate consistent or ongoing problems with her mail, and the Department did not receive any return mail addressed to the Claimant as not deliverable or otherwise returned. It is also apparent that the Claimant in fact received all the other mail sent to her by the Department including the Notice of Case Action. Based upon the evidence presented and the testimony of the parties it is found that the Claimant did not present any evidence that rebutted the presumption that the letters, Notice of Appointment(s) and Notice of Non Compliance were received. Thus it is specifically found that the Claimant did receive the notices and did not respond in any manner. Based upon this finding and considering the testimony of the parties, it is determined that the Department's denial of the Claimant's FIP case and imposition of a 3 month sanction was correct as the Claimant did not attend the work first or orientation as scheduled. The Claimant may

reapply for FIP benefits at any time as the sanction for closure expired as of November 30, 2012.

The Claimant is cautioned that continuing sanctions for non participation in work-related activities could ultimately result in a lifetime disqualification from receiving FIP cash assistance. An individual must report to or orientation unless deferred from attending. This comment and decision do not address any medical deferral issues but the information is provided so that the Claimant is aware of the significance of receiving any further sanction for non participation and attendance regarding the work first program.

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.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 13, 2012

Date Mailed: December 13, 2012

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

LMF/cl

cc:

