

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201352654
Issue No.: 1038; 3029
Case No.: [REDACTED]
Hearing Date: July 16, 2013
County: Calhoun

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 July 16, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], her Authorized Hearing Representative (AHR) [REDACTED] and her Chore Services Provider, [REDACTED]. Participants on behalf of Department of Human Services (Department) included Case Manager (CM), [REDACTED] and PATH Case Manager and Policy Specialist, [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 June 1, 2013, the Department denied Claimant's application closed Claimant's FIP case due to non-compliance with employment related activities.

3. On June 1, 2013, the Department denied Claimant's application sanctioned Claimant's FAP case due to non-compliance with employment related activities.

4. On April 30, 2013, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. FIP closure and FAP sanction.

5. On June 10, 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 AACRS, 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.

By way of background, the Department's hearing summary indicates that on September 22, 2011, the Department's Medical Review Team (MRT) determined that the Claimant was disabled to the point that she need not participate in employment related activities. On October 8, 2012, updated medical was sent to MRT and MRT issued a deferral and requested a mental status exam which was ultimate conducted. MRT received the report from the mental status exam on February 7, 2013 and issued its report that the Claimant was "work ready with limitations." Those limitations were determined to be no more than 6 hours of standing or sitting in a work day and lifting 50 pounds or more up to 1/3 of the day and 25 pounds for 1/3 to 2/3's of the day. The Claimant's limitations also include limited to unskilled work. The Department workers at the hearing were questioned as to why it was that the Claimant was once determined to be too disabled to participate in employment related activities but has now been determined to participate with the above listed limitations. The Department workers present at the hearing could only speculate that it was due to a policy change.

Ultimately, the PATH program determined that the Claimant was required to participate in employment related activity for 30 hours a week. The Department workers present at the hearing were not the Work First workers assigned to the Claimant and did therefore not interact with the Claimant during her orientation or employment related activities. The Work First workers that interacted with the Claimant and were required to address any barriers to employment that the Claimant might have were not present at the hearing. Per Department testimony, the Claimant's alleged non-compliance is a failure to complete 30 hours of employment related activities for the week ending April 14, 2013, April 21, 2013 and April 28, 2013.

The uncontested testimony is that the Claimant has a Chore Services Provider and that she walks with a walker and that it is a four mile walk to the nearest bus stop and she simply cannot walk that far every day. The Department testified that the Claimant was offered Van Rides and that the Claimant has chosen not to use them. The Claimant contested that testimony and said she has no phone to even telephone for [REDACTED] and that the [REDACTED] were only ever offered to her once. The Work First person who was to have offered the [REDACTED] was not present at the hearing to contest the Claimant's testimony and the case notes in evidence are not determinative of this issue. The hearing packet contains no evidence of any discussion or forms completed which would indicate how it was that the Claimant's transportation barriers were addressed at orientation.

Bridges Eligibility Manual (BEM) 233A (2012), pp. 8, 9, provide 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 April 30, 2013, gives the Claimant notice that she was noncompliant on April 30, 2013 because of "no participation in required activity." The date of non-compliance on the DHS-2444, Notice of non-compliance is inconsistent with the dates of alleged non-compliance that the Department testified to in the hearing. That notice scheduled a triage meeting for May 8, 2013. The uncontested testimony is that, at triage, the Claimant's AHR requested another DHS-54-E form which the Department provided. Department testimony was that a good cause determination was not made until the form was received back from the Claimant's doctor. The form was completed by [REDACTED] and it indicated that the Claimant is permanently disabled, cannot complete job search activities, much less ever lift over 25 pounds. The Department testimony was that there was no new information on the form, and as such, no good cause was found for the Claimant's non-compliance.

BEM 233A p. 4, provides that if the Claimant client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information it could constitute good cause. This would include any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. This is because the disability-related needs or limitations may not have been identified or assessed prior to the noncompliance. Here they were apparently assess and identified with differing conclusions between the MRT and the Claimant's M.D.

The Department did not act in accordance with its policy when issuing the DHS-2444, Notice of Non-compliance. Furthermore, the Claimant testified that she has significant barriers to her participating in PATH 30 hours a week and significant barriers regarding transportation issues. BEM 233A, p. 4, provides that no transportation can constitute good cause for the Claimant's non-compliance if the Claimant requested transportation services from the Department prior to case closure and no reasonable priced transportation is available to the Claimant. While the bus may be reasonably priced, the Department did not contest that the Claimant can walk four miles to the bus station on a regular basis. While the Department workers at the hearing testified that Claimant was offered Van Ride services three times and turned it down, those workers would have no

personal knowledge of that and the case notes in evidence also do not specifically state that. Furthermore, if the Claimant could walk four miles to the bus station, it is highly doubtful the Department would have even mentioned Van Ride services in the first instance.

In short, the Claimant did obtain a statement from an MD indicating that she was unable to participate in job search activities during her alleged non-compliance. More importantly, the Administrative Law Judge determines that there exists a good possibility that reasonably priced, accessible transportation was not made available to the Claimant due in part to her disability. Also, the Department did not act in accordance with its policy when issuing the DHS-2444, Notice of Non-compliance and as such, the Administrative Law Judge concludes that the Department was not acting in accordance with its policy when taking action to close the Claimant's FIP case and sanction the Claimant's FAP case.

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.

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 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 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 and remove the Claimant's FAP sanction back to the closure date, and

2. 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: 7/17/13

Date Mailed: 7/18/13

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:

