

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

IN THE MATTER OF:



Reg. No.: 2013-59848
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 28, 2013
County: Jackson

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 August 28, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of Department of Human Services (Department) included Family Independence Manager (FIM) [REDACTED] [REDACTED] and PATH Worker, [REDACTED] [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. Per the Department's hearing summary (as there is no DHS-1605, Notice of Case Action in evidence) on August 1, 2013, the Department denied Claimant's application closed Claimant's FIP case due to non-compliance with employment related activities.

3. Per the Department's hearing summary (as there is no DHS-1605, Notice of Case Action in evidence) on July 10, 2013, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. FIP closure.
4. On July 26, 2013, Claimant filed a hearing request, protesting the denial of the application. FIP 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, 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 Claimant in this case testified that she had participated with Work First by attending school. She was never informed by her Work First Worker, [REDACTED] that she had to provide any [REDACTED] logs. Indeed, [REDACTED] the Claimant testified that [REDACTED] admitted that this was her mistake and she had intended to correct it, but then she went on sick leave. The Department was asked to respond to the Claimant's testimony and [REDACTED] said she could not, as she has no personal knowledge of those conversations and [REDACTED] is indeed out on leave.

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 July 10, 2013, gives the Claimant notice that she was non-compliant because of a missed appointment/meeting. The Department, however, testified that the Claimant was non-compliant because she submitted no logs for 3 weeks. The DHS-2444, Notice of Non-compliance at notice scheduled a triage meeting for July 16, 2013. When asked she did not attend, the Claimant testified that she only ever received the notice on July 17, 2013. Similarly, she only received the notice of an appointment sent July 3, 2013, on July 11, 2013. The Department testified that the DHS-2444, Notice of Non-compliance is sent to Lansing and then sent to the Claimant.

The Claimant's testimony is found to be credible and persuasive. From her interaction with Work First on July 11, 2013 and even on her hearing request, the Claimant has consistently maintained that she was not informed that she had to submit job logs and was told that she no longer had to submit school logs. No one at the hearing had any personal knowledge of the Claimant's assertion. There are no signed orientation documents in the record indicating that the Claimant was informed that she had to submit job logs. Regarding missing an appointment, it is entirely plausible that the Claimant is getting her notices too late if they are first sent to Lansing and then sent back to her. As such, the evidence does not establish that the Claimant was in non-compliance with employment related activity.

Bridges Eligibility Manual (BEM) 233A (2013) p. 6, provides that the penalty for noncompliance without good cause is FIP case closure. However, in this case, the Administrative Law Judge determines that the evidence is insufficient to establish that the Claimant was in non-compliance with employment related activities. 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 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 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
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: August 29, 2013

Date Mailed: August 29, 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

SEH/tb

cc:

