

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-13986
Issue No.: 1008; 3007
Case No.: [REDACTED]
Hearing Date: January 7, 2014
County: Ingham

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 7, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Case Worker, [REDACTED]

ISSUE

Did the Department properly close Claimant's case for:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

Did the Department properly sanction Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

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 received: FIP FAP benefits.

2. On November 1, 2013, the Department closed Claimant's FIP case due to non-compliance with employment related activities.
3. On November 1, 2013, the Department sanctioned Claimant's FAP case due to non-compliance with employment related activities.
4. On October 7, 2013, the Department sent Claimant its decision.
5. On October 16, 2013, Claimant filed a hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL

104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, the uncontested testimony is that the Claimant had her [REDACTED] [REDACTED] from the [REDACTED] and CPS was requiring her to go to [REDACTED]. The Claimant explained that she checked into [REDACTED] and was there for three days, which is why she did not attend Michigan Works. The Claimant testified that she reported that she would be required to attend [REDACTED] and then [REDACTED], and the case notes in evidence support the Claimant's testimony. As such, the Claimant's testimony is found to be credible and persuasive in this regard. The Claimant further testified that after she was discharged from [REDACTED], her [REDACTED] was no longer available.

The Department's Case Worker present at the hearing had no personal knowledge of the interactions between the Claimant and her MWA case workers. Indeed, the DHS-2444, Notice of Non-compliance informs the Claimant that she is non-compliant because she did not attend a re-engagement meeting on October 7, 2013. The Claimant denied ever receiving notice of this re-engagement meeting and the Department's Case Worker testified that she did not know if the Claimant was ever sent written notice of that re-engagement meeting.

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 October 7, 2013, gives the Claimant notice that she was non-compliant on October 7, 2013, because of "no participation in required activity." The evidence indicates that the only thing required of the Claimant on that date is her attendance at a re-engagement meeting. The evidence does not indicate how the Claimant was notified of that meeting, or even if the Claimant was notified of that meeting. The DHS-2444, Notice of Non-compliance scheduled a triage meeting for October 16, 2013 and the Department's Case Worker testified that no good cause was found for the Claimant's non-compliance, yet the Case Worker could not testify with any certainty what it was that the Claimant did or failed to do that constituted her non-compliance. The Case Worker did mention that the Claimant did not attend the re-engagement meeting, yet the evidence does not indicate that the Claimant was ever properly notified of such a meeting.

Bridges Eligibility Manual (BEM) 233A (2013) p. 6, provides that the penalty for noncompliance without good cause is FIP case closure. The Administrative Law Judge is unclear as to what act or failure to act constitutes the Claimant's non-compliance in this case. The Administrative Law Judge therefore concludes that when the Department took action to close the Claimant's FIP case and sanction the Claimant's FAP case, the Department was not acting in accordance with its policy.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it took action to close the Claimant's FIP case and sanction the Claimant's FAP case.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, 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: 1/9/14

Date Mailed: 1/9/14

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

SEH/tb

cc:

