

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-34420  
Issue Nos. 1038, 2000, 6015  
Case No. [REDACTED]  
Hearing Date: June 16, 2011  
DHS County: Wayne (76)

**ADMINISTRATIVE LAW JUDGE:** Jan Leventer

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED]'s request for a hearing. After due notice, a telephone hearing was held on June 16, 2011. Claimant appeared and testified. [REDACTED], Family Independence Manager, appeared and testified for the Department of Human Services (DHS).

**ISSUES**

1. Whether DHS terminated Claimant from the Family Independence Program (FIP) and the Child Development and Care (CDC) program, in accordance with policy and procedure?
2. Whether Claimant's request to dismiss the Medical Assistance (MA or Medicaid) claim in her Request for Hearing shall be granted?

**FINDINGS OF FACT**

The Administrative Law Judge, based on competent, material, and substantial evidence in the record and on the entire record as a whole, finds as fact:

1. In 2011, DHS provided FIP benefits to Claimant.
2. DHS required Claimant to participate in the Jobs, Education and Training (JET) program in order to receive FIP benefits.

3. DHS did not specify a date on which Claimant did not comply with the requirements of the JET program.
4. On May 9, 2011, DHS issued a Notice of Case Action terminating Claimant from the FIP, MA and CDC programs.
5. On May 16, 2011, Claimant submitted a Request for a Hearing to DHS.
6. At the Administrative Hearing on June 16, 2011, Claimant testified she was receiving MA benefits on an ongoing basis and requested that the MA issue be dismissed from her case.

### **CONCLUSIONS OF LAW**

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT). These manuals are available online at [www.michigan.gov/dhs-manuals](http://www.michigan.gov/dhs-manuals).

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and MACR 400.3001-400.3015. Department policies are found in BAM, BEM and RFT. *Id.*

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the U.S. Code of Federal Regulations. DHS administers MA pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS policies are found in BAM, BEM and RFT. *Id.*

BAM, BEM and RFT are the policies and procedures DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan State Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

With regard to FIP, BEM 230A, "Employment and/or Self-Sufficiency-Related Activities: FIP/RAP [Refugee Assistance Program] Cash," follows Federal and State law, which require that every work-eligible individual must participate in the JET Program or other

2011-34420/JL

work-related activities unless the person is temporarily deferred or engaged in other activities that meet participation requirements. BEM 230A.

Next, BEM 233A, "Failure to Meet Employment and/or Self-Sufficiency-Related Requirements: FIP," also governs DHS' action in this case.

BEM 233A begins with a significant statement of the Department's Philosophy:

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. **Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency.** However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to **obtain client compliance** with appropriate work and/or self-sufficiency related assignments and to **ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.**

Noncompliance may be an indicator of possible disabilities. **Consider further exploration of any barriers.** *Id.*, p. 1 (emphasis added).

I find that DHS is very clear in this paragraph that the goal is to identify and remove barriers to employment, and the DHS goal is *not* to penalize customers for generalized failures and mistakes. I also read this section to mean that if the customer shows good cause for their action or failure to act, that action or failure to act will be excused and will not be held against them, and no penalties will be imposed.

I have examined all of the evidence and testimony in this case as a whole. I find no evidence in the record to establish the date on which DHS asserts that Claimant was assigned to a JET activity, and I find nothing that documents that she failed to do it. Indeed, at the hearing DHS testified it did not know what the date of the noncompliance was.

Based on the record before me, I find and determine that DHS erred in this case, in that it failed to identify a verifiable date that the noncompliance occurred, and what actually happened at the time. I find and conclude that DHS failed to establish by clear and convincing evidence that there was noncompliance in this case. I find and decide that the procedure followed in this case failed to fulfill the duty of DHS under BEM 233A to identify and resolve barriers to employment and self-sufficiency. I find that the purpose of BEM 233A has not been fulfilled in this case and I must reverse DHS and provide a remedy to Claimant.

In conclusion, based on the findings of fact and conclusions of law above, I conclude and decide that DHS erred when it concluded that Claimant was noncompliant and

2011-34420/JL

terminated her FIP and CDC benefits. I REVERSE the Agency's action, and ORDER that Claimant's FIP and CDC benefits shall be reinstated, DHS shall provide Claimant with any supplemental retroactive benefits to which she is entitled, DHS shall delete any penalties imposed on Claimant, and Claimant shall be allowed to re-enroll in the JET program if otherwise appropriate.


In addition, based on Claimant's request to dismiss her claim regarding MA benefits, I shall DISMISS this claim from the proceedings.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is PARTIALLY REVERSED and PARTIALLY DISMISSED. IT IS ORDERED that DHS is REVERSED with regard to Claimant's FIP and CDC benefits. DHS shall reinstate and reprocess Claimant's FIP and CDC benefits, delete any negative actions imposed on Claimant, provide appropriate supplemental retroactive benefits, and re-enroll Claimant in the JET program, in accordance with DHS policy and procedure.

With regard to Claimant's MA issue in this case, at Claimant's request, this issue is DISMISSED.

All steps shall be taken in accordance with DHS policy and procedure and the requirements of this decision.

  
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Jan Leventer  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: June 20, 2011

Date Mailed: June 20, 2011

**NOTICE:** Administrative Hearings 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. Administrative Hearings 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.

2011-34420/JL

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

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