

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-35666
Issue No. 1038
Case No. [REDACTED]
Hearing Date: June 30, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on June 30, 2011. The claimant appeared and testified. [REDACTED] JET Specialist and [REDACTED] JET District Coordinator, appeared on behalf of the Department of Human Services (Department or DHS.)

ISSUE

Was the Department correct in its decision to close Claimant's Family Independence Program (FIP) case and decrease Claimant's Food Assistance Program (FAP) benefits due to noncompliance with employment and/or work-related activities?

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 was an ongoing FIP and FAP recipient.
2. As a recipient of FIP, Claimant was required to participate in employment-related activities.
3. To fulfill this requirement, Claimant was assigned to the Jobs, Education and Training (JET) program.
4. Claimant attended the JET program as assigned.

5. On April 20, 2011, the Department issued a Notice of Noncompliance indicating that Claimant did not participate in required activities on April 18, 2011.
6. The Department held a duage on April 28, 2011 where Claimant did not appear.
7. The Department issued a JET appoi ntment date for May 10, 2011, which Claimant could not attend due to transportation issues.
8. The Department issued a JET appoi ntment date for May 17, 2011, which Claimant did attend.
9. The Department closed Claim ant's case on May 18, 2011 due to non-participation with the Work First/JET program.
10. Claimant requested a hearing, protesting the negative action.

CONCLUSIONS OF LAW

The Family Independence Program ("FIP") was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services ("DHS" or "Department"), formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq* and Michigan Administrative Code Rules 400.3101-3131. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

FAP 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 administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual, which includes the Reference Tables (RFT).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A All Work Eligible Individuals ("WEI") are required to participate in the development of a Family Self-Sufficiency Plan ("FSSP") unless good cause exists. BEM 228 As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. BEM 233A The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program ("JET") or other employment service provider. BEM 233A Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the

control of the noncompliant person. BEM 233A Failure to comply without good cause results in FIP closure. BEM 233A The first and second occurrences of non-compliance results in a 3 month FIP closure. BEM 233A The third occurrence results in a 12 month sanction.

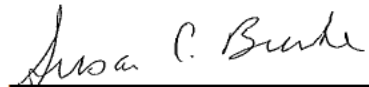
JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance, the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A In addition, a triage must be held within the negative action period. BEM 233A A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A.

In the present case, the Department did not close Claimant's case immediately after the duage of April 28, 2011. Instead, the Department issued an appointment for Claimant for Work First for May 10, 2011. The Department at the hearing could not explain why an appointment was made for Claimant following the duage, so it is likely that at the time the Department decided to keep Claimant in the JET program. Claimant could not attend the appointment set for May 10, 2011 due to transportation issues, so the Department issued another appointment for May 17, 2011. Claimant testified credibly that she attended the appointment, describing in detail her conversation with the Work First worker and describing the instructions of that worker for her to attend Work First on June 24, 2011 or June 31, 2011. However, before Claimant could attend Work First as instructed by the Work First worker, the Department closed Claimant's case on May 18, 2011, citing the non-participation of Claimant in the duage appointment and Claimant's failure to attend the May 10, 2011 appointment. It is noted that the Work First worker did not testify at the hearing.

It appears that the Department was issuing conflicting messages. After a duage, Claimant was referred to Work First, which placed Claimant back into the JET program. After Claimant called the Department and said she could not attend the Work First appointment due to transportation issues, the Department gave her another appointment, which she attended. The Department did not send a Notice of Noncompliance regarding the missed May 10, 2011 appointment, thereby allowing her to defend herself at a triage or duage; rather the Department gave Claimant another appointment, so it is likely that the Department was willing to place Claimant back into the JET program. However, the Department closed Claimant's case after she attended the JET appointment. I am not persuaded that Claimant was in noncompliance with the JET program and I am not convinced that the Department followed the proper procedure in this matter. Accordingly, the Department's decision to close Claimant's FIP case and decrease Claimant's FAP benefits was not correct.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law decides that the Department's decision to close Claimant's FIP case and decrease Claimant's FAP benefits was not correct, and it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall reinstate Claimant's FIP and FAP cases and restore Claimant's benefits, effective June 1, 2011, and issue any missed or increased payments in the form of a supplement, if Claimant is found to be otherwise eligible.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan Director
Department of Human Services

Date Signed: 7/1/11

Date Mailed: 7/1/11

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.

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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