

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-41109
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 10, 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 Claimant's request for a hearing. After due notice, a telephone hearing was held on August 10, 2011 in Detroit, Michigan. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED]

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 failure to comply with 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. On June 15, 2011, the Department issued to Claimant a Notice of Noncompliance with no dates of noncompliance listed in said Notice.
3. The Department closed Claimant's FIP case and decreased Claimant's FAP benefits after a duage was held on June 24, 2011.
4. On June 29, 2011, Claimant requested a hearing, protesting the negative action.

CONCLUSIONS OF LAW

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 (Department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Program Reference Manual (PRM).

FAP was 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 BAM, BEM and PRM.

The Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 230A; BEM 233A. All Work Eligible Individuals (WEIs) 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 JET Program 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 result in a three-month FIP closure. BEM 233A. The third occurrence results in a twelve-month sanction. The goal of The FIP penalty policy is to bring the client into compliance. BEM 233A.

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 Noncompliance (DHS-2444) **which must include the date(s)** of the noncompliance, the reason the client was determined to be noncompliant; and the penalty duration. BEM 233A. (Emphasis added.) In addition, a triage must be held within the negative action period. BEM 233A.

In the present case, the Department issued to Claimant a Notice of Noncompliance dated June 15, 2011, which Notice did not contain the dates of alleged noncompliance, as required in BEM 233A. In addition, the Department presented a statement from the Medical Review Team that Claimant was able to attend JET. However, even if Claimant is able to attend JET generally, the Department must prove that Claimant did not attend JET on the dates in the Notice of Noncompliance. Since there were no dates in the Notice of Noncompliance, the Department could not prove that it correctly closed

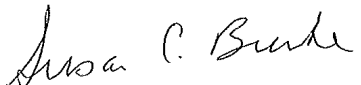
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Claimant's FIP case and decreased Claimant's FAP benefits due to noncompliance with work-related activities on the dates in the Notice.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law decides that the Department was not correct in its decision to close Claimant's FIP case and decrease Claimant's FAP benefits, and it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall:

- 1.) Reinstate Claimant's FIP case from the date of its closure on or about June 24, 2011, if Claimant is otherwise eligible.
- 2.) Restore Claimant's FAP benefits from the date of decrease, on or about June 24, 2011, if Claimant is otherwise eligible.
- 3.) Issue supplements for any missed or increased FIP or FAP payments.



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

Date Signed: 8/16/11

Date Mailed: 8/16/11

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.

SB/sm