

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-44744  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: August 22, 2011  
Macomb 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 22, 2011 in Detroit, Michigan. Claimant appeared and testified. Claimant's spouse, [REDACTED] also testified. The Department was represented by [REDACTED] JET Case Manager.

**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 2, 2011, the Department issued to Claimant's spouse a Notice of Noncompliance with no dates of noncompliance listed in said Notice.
3. A triage was scheduled for June 9, 2011.
4. Claimant attempted to contact his Department worker on June 6, 2011, but the worker's voice mail stated she would be out of the office until June 18, 2011.

5. The Department closed Claimant's FIP case and decreased Claimant's FAP benefits, effective July 1, 2011, after a triage was held on June 9, 2011.
6. On June 23, 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's spouse a Notice of Noncompliance dated June 2, 2011, which Notice did not contain the dates of alleged noncompliance, as required in BEM 233A. In addition, the Department did not submit into evidence a Notice of Noncompliance as to Claimant being noncompliant and the dates of his noncompliance. The Department generally relied on "Update View Case Notes," alleging that Claimant did not submit "his" job search hours.

Since there were no dates in the Notice of Noncompliance with respect to Claimant's spouse, and the Department did not submit into evidence a Notice of Noncompliance with respect to Claimant, the Department could not prove that it correctly closed Claimant's FIP case and decreased Claimant's FAP benefits due to noncompliance with work-related activities on the dates in a Notice of Noncompliance. Furthermore, Claimant and his spouse testified credibly that they attempted to submit JET verification to their Michigan Works worker, who has since left Michigan Works, but that worker told them to submit the paperwork to their Department worker. When attempting to contact their Department worker to ascertain information regarding the Notice of Noncompliance, Claimant received a message that the Department worker would be out of the office until past the triage date. Based on the above discussion, I am not persuaded that Claimant or his spouse refused or failed to comply with work-related activities, and I therefore find that the Department was not correct in its decision to close Claimant's FIP case and decrease Claimant's FAP benefits.

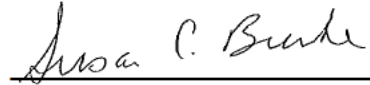
### **DECISION AND ORDER**

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.) Remove the negative action imposed on Claimant's FIP case, effective July 1, 2011.
- 2.) Initiate the reinstatement of Claimant's FIP case, effective July 1, 2011, if Claimant is otherwise eligible.

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- 3.) Initiate the restoration of Claimant's FAP benefits, effective July 1, 2011, if Claimant is otherwise eligible.
- 4.) Issue supplements for any missed or increased FIP or FAP payments from July 1, 2011 and ongoing.



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

Date Signed: 8/29/11

Date Mailed: 8/29/11

**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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