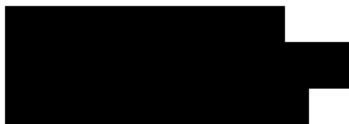


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-45467
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 25, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Susan 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 25, 2011 in Detroit, Michigan. Claimant appeared and testified. The Department was represented by [REDACTED] JET Coordinator. [REDACTED] W [REDACTED] a JET contractor affiliated with Michigan Works, also testified.

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 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 recipient of FIP and FAP.
2. The Department issued a Notice of Noncompliance on June 22, 2011, stating that Claimant did not participate in required activity on June 7, 2011.
3. Claimant did participate in required activity on June 7, 2011.
4. Claimant met with a JET contractor on June 15, 2011 and was told by the JET contractor to contact her Department worker.

5. Claimant attended an appointment with her Department worker prior to July 5, 2011, which appointment was rescheduled by the Department worker.
6. Claimant could not attend the rescheduled appointment with the Department worker due to physical illness.
7. The Department scheduled a triage for July 5, 2011, giving notice to Claimant of the date and time of triage in the Notice of Noncompliance of June 22, 2011.
8. Claimant did not attend the triage on July 5, 2011 because she was in physical pain.
9. The Department and the JET contractor held the July 5, 2011 triage in Claimant's absence and indicated on a Triage Results Form that Claimant failed to participate in required activity.
10. Claimant participated in required activity to the best of her physical and mental ability.
11. The Department closed Claimant's FIP case and decreased Claimant's FAP benefits, effective July 7, 2011.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual, which includes the Reference Tables (RFT).

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 administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. Department policies are found in 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. In addition, a triage must be held within the negative action period. BEM 233A.

In the present case, Claimant testified credibly that she could not attend the triage on July 5, 2011 due to her being in great physical pain. Claimant and the JET contractor agreed at the hearing that Claimant did participate in the JET program on June 7, 2011, contrary to what was indicated in the Notice of Noncompliance. However, both Claimant and the JET contractor agreed that Claimant did not participate in JET between June 7, 2011 and June 15, 2011. Claimant testified credibly that at the June 15, 2011 meeting with a JET contractor, she was told to contact her Department worker to obtain paperwork to verify medical problems. Claimant did make an appointment with her Department worker prior to the triage date and attended the appointment, but the Department worker changed that appointment to another date. Claimant was not able to attend the rescheduled appointment due to physical inability. Claimant testified credibly that she is in physical and mental pain, and although she is able to attend JET on some days, she is not able to attend JET on other days. Based on the above discussion, I find that Claimant had good cause, that is, a valid reason for noncompliance with employment and/or self-sufficiency-related activities, as her physical illness was beyond the control of Claimant. It is noted, however, that Claimant should obtain verification from medical personnel for future reference.

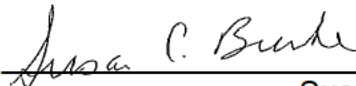
DECISION AND ORDER

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 July 7, 2011 negative action on Claimant's case.

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2. Initiate reinstatement of Claimant's FIP case, effective July 7, 2011, if Claimant is otherwise eligible.
3. Initiate restoration of Claimant's FAP benefits, effective July 7, 2011, if Claimant is otherwise eligible.
4. Issue supplements to Claimant for any missed or increased FIP or FAP payments from July 7, 2011 and ongoing.



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

Date Signed: 9/1/11

Date Mailed: 9/1/11

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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