

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

IN THE MATTER OF:



Reg. No.: 2011-47695
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: September 7, 2011
Macomb 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 September 7, 2011 in Detroit, Michigan. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED] Case Manager.

ISSUE

Was the Department correct in its decision to place a negative action on Claimant's Family Independence Program (FIP) case, close Claimant's FIP case, and decrease Claimant's Food Assistance Program (FAP) benefits due to noncompliance with employment-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 received benefits for the Family Independence Program (FIP) and the Food Assistance Program (FAP).
2. On April 25, 2011, the Department issued a Notice of Noncompliance, setting a triage for May 5, 2011.
3. On May 5, 2011, the Department held a triage and found good cause for noncompliance and placed Claimant back into the JET program.
4. Claimant was directed to attend JET on May 9, 2011.

5. The Department issued a Notice of Noncompliance regarding an alleged missed May 9, 2011 appointment, scheduling a triage appointment for July 12, 2011.
6. Claimant did not appear for the triage of July 12, 2011.
7. The Department did not hold the July 12, 2011 triage because Claimant did not appear for the triage.
8. The Department placed a negative action on Claimant's FIP case, and, effective August 1, 2011, closed Claimant's FIP case and decreased Claimant's FAP benefits, due to Claimant failing to participate in work-related activities.

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 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), which includes the Reference Tables (RFT.)

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).

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. Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA. Good cause must be considered **even if the client does not attend**, (emphasis added) with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. 233A.

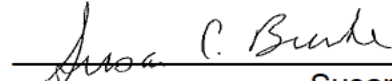
In the present case, the Department did not hold the July 12, 2011 triage because Claimant did not appear for the triage. However, a triage must be held regardless of whether Claimant attends the triage. BEM 233A. Therefore, the Department was not correct in its decision to place a negative sanction on Claimant's FIP case, 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 impose a negative action on Claimant's FIP case, close Claimant's FIP case and decrease Claimant's FAP benefits. It is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED:

1. The Department shall remove the negative action placed on Claimant's FIP case.
2. The Department shall initiate the reinstatement of Claimant's FIP case, effective August 1, 2011, if Claimant is otherwise eligible.
3. The Department shall initiate the restoration of Claimant's FAP benefits, effective August 1, 2011, if Claimant is otherwise eligible.

4. The Department shall issue supplemental FIP and FAP payments to Claimant from August 1, 2011 and ongoing if Claimant is otherwise eligible for FIP and FAP.



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

Date Signed: 9/15/11

Date Mailed: 9/16/11

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

cc: A. Scott

