

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-4776
Issue No.: 1038/3029
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 6, 2010
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Monday, December 6, 2010. The Claimant appeared, along with [REDACTED], and testified. [REDACTED], and [REDACTED] appeared on behalf of the Department.

ISSUE

1. Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits due to Jobs, Education, and Training ("JET") program non-compliance?
2. Whether the Department properly reduced the Claimant's food assistance ("FAP") benefits due to JET non-compliance.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was a FIP recipient.
2. The Claimant is a FAP recipient.
3. The Claimant's spouse was assigned 360 hours of Job Search/Job Readiness Activities.
4. After the first two weeks, the Claimant's spouse did not submit the Weekly Activities Log.

5. On August 26, 2010, the Claimant's case was referred for triage due to the spouse's JET non-compliance. (Exhibit 1, pp. 4 – 8)
6. On September 23, 2010, the Department sent a Notice of Non-compliance to the Claimant (spouse) instructing him to appear for triage on October 7, 2010 at 3:15 p.m. (Exhibit 1, pp. 2, 3)
7. A triage was not held.
8. On October 8, 2010, the Department pended the Claimant's FIP benefits for closure and reduced FAP benefits due to JET non-compliance. (Exhibit 1, pp. 9 – 12)
9. On October 25, 2010, the Department received the Claimant's written request for hearing. (Exhibit 2)

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 MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

The Food Assistance Program, formerly known as the Food Stamp ("FS") program, 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 of Human Services administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the BAM, BEM, and BRM.

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 JET engagement is a condition of FIP eligibility. BEM 229 The limit for each WEI assigned to Job Search/Job Readiness is a week of federally required hours for 12 weeks. BEM 230A Actual hours are entered on the FSSP. BEM 230A Activities assigned on the FSSP must be verified using a Weekly Activity Log. BEM 230A The failure to return the

Weekly Activity Log by the due date is treated as a non-compliance. BEM 230A The WEI is considered non-compliant for failing or refusing to appear and participate with the JET or other employment service provider. BEM 233A Good cause is a valid reason for non-compliance 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 non-compliance 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 this case, the Claimant and her spouse testified that they appeared for the scheduled triage but that it was not held. Assuming this is true; the Claimant is required to establish good cause for the JET non-compliance. The Claimant's spouse was required to participate in the JET program. Specifically, the Claimant was required to complete 360 hours of Job Search/Job Readiness activities. The spouse successfully completed the first two weeks but failed to submit the Weekly Activities Log as required thereafter. The spouse testified that he was engaged in employment and/or self-sufficiency related activities but he was not participating at the assigned location. The spouse further acknowledged that he did not submit his participation hours. In light of the foregoing, good cause for the JET non-compliance was not established. Accordingly, the Department's FIP determination is upheld.

The Claimant's FAP allotment reduced because the Claimant's spouse was removed due to the JET non-compliance. As noted above, good cause was not established so the Department properly removed the spouse from the FAP allotment. Accordingly, the Department's FAP determination is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department acted in accordance with Department policy when it terminated the Claimant's FIP assistance and reduced the Claimant's FAP benefits.

Accordingly, it is ORDERED:

1. The Department's FIP termination is upheld.

2011-776/CMM

2. A 3-month FIP sanction is imposed from the date of closure based upon the JET non-compliance in accordance with department policy.
3. The Department's FAP reduction is upheld.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/7/2010

Date Mailed: 12/7/2010

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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.

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