

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

IN THE MATTER OF:

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██████████

Reg. No.: 2011-50114  
Issue No.: 1038  
Case No.: ██████████  
Hearing Date: October 3, 2011  
Wayne County DHS (43)

**ADMINISTRATIVE LAW JUDGE:** Lynn M. Ferris

**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 held on October 3, 2011. The claimant appeared and testified; ██████████ JET Case Manager, and ██████████, JET Coordinator, also appeared and testified on behalf of the Department of Human Services (DHS).

**ISSUE**

Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits due to Claimant's alleged noncompliance with Jobs, Education and Training (JET).

**FINDINGS OF FACT**

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

1. Claimant was an ongoing FIP benefit recipient.
2. The Department determined the Claimant was non compliant with Work First and scheduled a triage.
3. The Claimant was sent a Notice of Non Compliance on 7/1/11 to attend a triage scheduled on July 8, 2011. Exhibit 3.
4. The Claimant received the Notice of Non Compliance. The Claimant did not attend the triage.

5. The Department closed the Claimant's cash assistance case on August 31, 2011 for non compliance, and imposed a 90 day sanction for non compliance with work related activities.
6. The Department did not conduct a triage, as the Claimant did not appear at the triage and the Department did not consider good cause because the Claimant did not attend the triage. Exhibit 5.
7. No witness on behalf of the Department with actual knowledge of what occurred as a result of the scheduled triage appeared at the hearing.
8. The Hearing Summary provides in part "that on 7/8/11 client was scheduled to make contact with DJS and MWA to show good cause and she failed to keep the appointment."
9. DHS failed to hold a triage meeting because of Claimant's lack of attendance at the triage and based no good cause on her non attendance. Exhibit 5.
10. The Claimant requested a hearing on 8/9/11 protesting the closure of her FIP cash assistance case.

### **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), 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 Reference Tables Manual (RFT).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A at 1. Federal and state laws require each work eligible individual (WEI) in a FIP group to participate in Jobs, Education and Training (JET) Program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. *Id.* These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.*

JET is a program administered by the Michigan Department of Energy, Labor and Economic Growth through the Michigan Works! Agencies. *Id.* The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *Id.* The WEI is considered non-

compliant for failing or refusing to appear and participate with JET or other employment service provider. *Id* at 2.

The only evidence that DHS presented to establish Claimant's noncompliance was the testimony of the caseworker who did not attend the triage and a triage outcome form which does not indicate that good cause was determined. In the box on the form where it indicates "briefly describe the Client's specific situation it provides, " No call no show, 90 day sanction". Exhibit 5. No witness with first hand knowledge of what occurred at the scheduled meeting appeared. One of the Department's witness indicated that it was the Department's procedure to not determine good cause if the client is a no show. The DHS caseworker clearly stated that no triage was required because the Claimant did not show up at the scheduled meeting.

The undersigned cannot reasonably find that Claimant failed to meet a JET participation requirement without knowing what the JET requirements were, and as none were considered by the Department and the hearing file contained only case notes indicating the Claimant did not attend Work First no evidence of non compliance was provided. Whatever reason for the non compliance of the Claimant, it was not established by the Department by the evidence it presented that a triage was held and a finding of no good cause made for non compliance with Work First requirements.

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 at 7. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. *Id*.

The DHS evidence of noncompliance was not presented, as the DHS mistakenly understood that it was not necessary to conduct a triage and determine non compliance and good cause if the Claimant did not appear for the scheduled triage. In the present case, the Department's failure to establish that it held a triage is clear error. A triage must always be held regardless of the Claimant's non attendance, and the evidence of non compliance must be reviewed and a determination of good cause or lack thereof must be reviewed in all cases.


The Department did not present sufficient evidence to demonstrate compliance with Department policy referenced herein requiring a triage be held, or to establish non compliance with the Work First program without good cause, and thus it has not met its burden of proof. The Department's determination is REVERSED. Accordingly, it is found that DHS improperly terminated Claimant's FIP benefits.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP case effective June 30, 2011 and its determination is REVERSED.

Accordingly it is ORDERED:

1. The Department shall initiate reinstatement of the Claimant's FIP benefits back to the date of closure (June 30, 2011).
2. The Department shall supplement Claimant for any FIP benefits not received as the result of the improper FIP case closure.
3. The Department shall remove any disqualification sanction related to the improper finding of non compliance from Claimant's disqualification history imposed on the Claimant with the June 30, 2011 case closure.
4. The Department shall initiate a new Notice of Non Compliance and shall schedule a new triage arising out of the Claimant's alleged non compliance with work related activities. The Department shall state with specificity in the notice the reason(s) for non compliance and include any dates of non compliance.
5. The Department shall conduct a triage regardless of whether the Claimant attends the triage, and shall make a specific finding(s) of good cause or lack of good cause and shall not base the finding of good cause on the Claimant's failure to attend the triage.

  
Lynn M. Ferris  
Administrative Law Judge  
For Ismael Ahmed, Director  
Department of Human Services

Date Signed: October 11, 2011

Date Mailed: October 11, 2011

**NOTICE:** Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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 date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

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- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

LMF/ hw

cc:

