

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-54846
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: November 2, 2011
Wayne County DHS (41)

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 hearing was held in Detroit, Michigan on Wednesday, November 2, 2011. The Claimant appeared, along with [REDACTED] and testified. The Claimant was represented by [REDACTED].

The hearing was scheduled for 3:15p.m. Despite an email to the worker and hearing coordinator as well as an inquiry at the front desk, no one from the Department participated in the hearing process. The hearing began at 3:50p.m.

ISSUE

Whether the Department properly reduced the Claimant's food assistance ("FAP") benefits effective July 2011?

FINDINGS OF FACT

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

1. The Claimant is a FAP recipient.
2. The Claimant received cash assistance benefits through June 2011.
3. The Claimant was required to participate in the Jobs, Education, and Training program.
4. The Claimant participated in orientation but was unable to attend the JET program because her child was ill, she lacked child care, and because she was attending school.

5. As a result of the non-participation, the case was referred to triage.
6. The Claimant presented to the local office and explained her barrier for JET participation.
7. The Claimant completed a redetermination application for FAP benefits.
8. The Claimant's group size is 2.
9. In processing the application, the Department approved the Claimant for FAP benefits in the amount of \$200.00 based on a group size of 1.
10. On September 13, 2011, the Department received the Claimant's timely written request for hearing.

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, formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq.* and Mich Admin Code Rules 400.3101-3131. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("RFT").

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

The Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A. The Family Self-Sufficiency Plan ("FSSP") was created to allow the Department and other Department client service providers to share information about mutual clients for optimal case management. BEM 228. The FSSP seeks to assist clients to achieve self-sufficiency, whenever possible, by identifying and removing barriers. BEM 228. All Work Eligible Individuals ("WEI") are required to participate in the development of 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 Jobs,

Education, and Training Program (“JET”) or other employment service provider. BEM 233A.

Noncompliance with employment requirements for FIP affects FAP if both programs are active on the date of noncompliance. BEM 233B. Non-deferred adult members of FAP households must follow certain work-related requirements in order to receive Food Assistance Program Benefits. BEM 233B; BEM 230B. The Department is required to investigate and determine good cause before the imposition of disqualification. BEM 233B; BEM 230B. 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; BEM 233B. Good cause must be verified and documented and may be based upon information already contained in the file. BEM 233A. Failure to comply without good cause results in FIP closure. BEM 233A. The first occurrence of non-compliance results in a 3 month FIP closure. 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 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. Good cause includes the lack of child care. BEM 233A.

In this case, the Department did not participate in the hearing process so it was not established that the Department acted in accordance with Department policy when it terminated the Claimant’s cash assistance and removed her as a group member in her FAP case. The unrebutted testimony was when the Claimant was notified of the triage, she contacted her case worker and explained that she was unable to participate with the JET program because her child was ill and she lacked child care. In addition, the Claimant was attending school. It should be noted that the Claimant is not seeking cash assistance, only FAP benefits. Ultimately, it is found that the Department failed to establish that the imposition of the FIP sanction was proper. Accordingly, the FAP calculation is REVERSED as the proper group size is 2, not 1.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department’s actions are not upheld.

Accordingly, it is ORDERED:

1. The Department’s FAP determination is REVERSED.

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2. The Department shall remove the July 2011 FIP sanction (if any) due to JET non-compliance.
3. The Department shall recalculate the Claimant's FAP budget based on a group size of two effective July 2011.
4. The Department shall notify the Claimant and her AHR of the FAP determination in accordance with Department policy.
5. The Department shall supplement for lost benefits that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with Department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: November 9, 2011

Date Mailed: November 9, 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.

CMM/cl

cc:

[REDACTED]