

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. 201114512
Issue No. 3029
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: February 10, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 February 10, 2011. The Claimant appeared along with her mother, [REDACTED], and both testified. [REDACTED], JET Case Manager appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's FAP benefits and in imposing a sanction?

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 recipient of FAP and FIP benefits.
- (2) Pursuant to an allegation of noncompliance, Claimant's FIP case closed and was sanctioned for 90 days on April 15, 2010.
- (3) Claimant's FAP case was sanctioned effective August 1, 2010.
- (4) No notice of the FAP sanction was presented by the Department at hearing.
- (5) Claimant gave birth in June 2010.

- (6) No determination of good cause related to the FAP program was made by the Department, prior to the imposition of the FAP sanction.
- (7) Claimant had good cause for failing to participate with Work First due to her pregnancy and the birth of her child.
- (8) Claimant requested hearing on January 4, 2011, contesting the determination of FAP benefits.

CONCLUSIONS OF LAW

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 ("DHS"), formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM").

PROCESS FOR FIP/ RAP ASSOCIATED NONCOMPLIANCE When you learn that a client is noncompliant do the following: • Send the DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days of the noncompliance.

Check all programs that apply to the noncompliance (FIP/ RAP and/or RAP) and the related penalty count that applies to each as outlined on the form. • Hold the triage appointment/phone conference and document the results in Bridges. **Note:** If the client does not participate in the triage meeting, determine good cause for FAP based on information known at the time of the determination. • Determine FAP good cause separately from the FIP/RAP based on FAP good cause reasons defined later in this item. If a good cause reason is selected for FIP/RAP it also applies to FAP. If the client does not meet one of the FIP/RAP good cause reasons in the drop down list, but does meet one of the FAP only good cause reasons, select the FAP only good cause reason to avoid client disqualification on FAP. Bridges makes both determinations simultaneously. **When To Disqualify** Disqualify a FAP group member for noncompliance when all the following exist: • The client was **active** both FIP and FAP on the date of the FIP noncompliance, **and** • The client did **not** comply with FIP/RAP employment requirements, **and** • The client is subject to a penalty on the FIP/RAP program, **and** • The client is **not** deferred from FAP work requirements (see DEFERRALS in BEM 230B), **and** • The client did not have good cause for the noncompliance. BEM 233B.

Pregnancy--Defer pregnant women, beginning the **seventh** month of pregnancy **or** earlier if a pregnancy complication is medically documented. BEM 230B.

Department policy sets forth the timeliness requirements for requests for hearing: The AHR or, if none, the client has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. BAM 600.

In the present case, Claimant's FIP case closed and was sanctioned effective April 15, 2010, due to allegation of noncompliance. The notes from the April 2, 2010, triage meeting state "90 day sanction", and make no reference to what program is being sanctioned.

Claimant was receiving \$200 FAP benefits for a household of 1 at the time of the FIP closure. Claimant continued to receive \$200 FAP for a household of 1 until July 2010, when she received \$367 FAP for a household of 2. In August 2010 Claimant was sanctioned and removed from the FAP household. No proof of notice regarding the imposition of the FAP sanction in August 2010 was presented by the Department at hearing. At hearing, the Department could not explain why there was a delay in imposing the FAP sanction. No documentation of any kind regarding the FAP sanction was presented by the Department at hearing.

Department policy dictates that a separate determination of good cause be made with regard to a potential sanction of FAP benefits for noncompliance with the FIP program. BEM 233B. This separate determination of good cause was never made by the Department, contrary to Department policy. BEM 233(b). Therefore, the imposition of FAP sanction was improper. Had a separate determination of good cause for the FAP program been made, Claimant would have been deferred due to her pregnancy, and the birth of her child. This Administrative Law Judge finds that Claimant had good cause for failing to participate with Work First due to her pregnancy. Therefore, the sanction of Claimant's FAP case was improper and incorrect.


The Department raised issues with regard to the timeliness of Claimant's request for hearing, but no notice was presented at hearing with regard to the imposition of the FAP sanction, so the 90 day deadline had not begun to run. BAM 600. Therefore, the request for hearing was timely.

DECISION AND ORDER

Therefore, based on the forgoing findings of fact and conclusions of law it is ORDERED that the Department decision to sanction Claimant's FAP cases for failing to participate with Work First is REVERSED. FAP benefits shall be recalculated and reissued going back to August 2010, to include Claimant in the household. Any increase in benefits

201114512/AM

shall be paid to Claimant in the form of a supplement.



Aaron McClintic
Administrative Law Judge
For Maura Corrigan Director
Department of Human Services

Date Signed: February 25, 2011

Date Mailed: February 25, 2011

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.

AM/hw

cc:

