

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.: 201123640
Issue No.: 1038; 3029
Case No.: [REDACTED]
Hearing Date: April 7, 2011
DHS County: Wayne

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 April 7, 2011. Claimant appeared and testified. Claimant's fiancé, [REDACTED], also testified on behalf of Claimant. FIM [REDACTED], Case Manager [REDACTED], JET Coordinator, and [REDACTED], JET Coordinator, appeared on behalf of the Department of Human Services (Department or DHS.)

ISSUE

Was the Department correct in taking negative action on Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) cases due to noncompliance with employment and/or work-related activities?

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 and FAP recipient.
2. As a recipient of FIP, Claimant was required to participate in employment-related activities.
3. To fulfill this requirement, Claimant was assigned to the Jobs, Education and Training (JET) program.

4. On February 11, 2011, the Department issued a Notice of Noncompliance addressed to Claimant, stating that she was not in compliance by not participating in required activity on December 13, 2010 and January 3, 2011.
5. Claimant contacted the Department and indicated that she could not attend the December 13, 2010 appointment due to her having limited access to transportation.
6. The Department rescheduled the appointment for January 3, 2011.
7. Claimant attended JET on January 3, 2011, but had to leave the appointment early due to her son's medical emergency.
8. The Department conducted a triage on February 24, 2011 and determined that Claimant had no good cause for not participating in employment-related activities.
9. The Department imposed a negative sanction on Claimant's FIP and FAP cases, effective April 1, 2011 for the reason that Claimant failed to participate in employment-related activities without good cause.
10. Claimant requested a hearing, protesting the negative action.

CONCLUSIONS OF LAW

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.

The Food Assistance Program (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 MCL 400.10, *et seq.* and MAC R 400.3001-3015. Departmental policies are found in BAM, BEM and PRM, 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. BEM 233A.

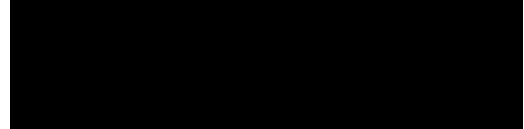
In the present case, Claimant testified that she received the Notice of Noncompliance issued by the Department which enumerated December 13, 2010 and January 3, 2011 as dates that Claimant did not participate in required activity. Claimant testified credibly that she notified the Department that she could not attend the December 13, 2010 appointment because of limited transportation, and the Department then rescheduled the appointment for January 3, 2011. Claimant attended the January 3, 2011 appointment, but had to leave prior to its completion due to her son's medical emergency. The Department did not dispute Claimant's testimony with regard to the two dates in question. I find that Claimant had good cause, that is, a valid reason for noncompliance with employment and/or self-sufficiency-related activities in that her transportation limitations and her son's medical emergency were beyond her control. In addition, both Claimant and her fiancé were credible in detailing that Claimant attempted to contact several workers, including one worker who has since retired. (BEM 233A). Based on the above discussion, I find that the Department was incorrect in taking negative action on Claimant's FIP and FAP cases.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was incorrect in its decision to take negative action on Claimant's FIP and FAP cases, and it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that Claimant's FIP and FAP cases shall be reinstated and benefits restored, effective April 1, 2011, if Claimant is otherwise

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eligible, with any missed or increased payments being made in the form of a supplement.



Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 23, 2011

Date Mailed: May 23, 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 90 days of the filing of the original request.

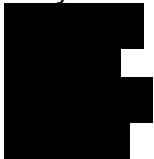
The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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Administrative Hearings