

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 201127263

Issue No: 1038

Case No: [REDACTED]

Hearing Date:

May 26, 2011

Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on November 29, 2010. After due notice, a telephone hearing was held on Thursday, May 26, 2011.

ISSUE

Whether the Department of Human Services (Department) properly processed the Claimant's Family Independence Program (FIP) 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. The Claimant was an ongoing Family Independence Program (FIP) recipient.
2. On November 19, 2010, the Department notified the Claimant that her Family Independence Program (FIP) benefits would be sanctioned as of December 1, 2010, for noncompliance with the JET program.

3. The Department received the Claimant's request for a hearing on November 29, 2010. The request was received 10 days after the Department sent its notice of case action.
4. The Department pended the Claimant's Family Independence Program (FIP) sanction pending an administrative 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 (DHS or Department) administers the FIP program pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The Claimant is an ongoing Family Independence Program (FIP) recipient, and the Department had referred her to the Jobs, Education, and Training (JET) program as a condition of receiving FIP benefits. On November 19, 2010, the Department determined that the Claimant was noncompliant with the JET program and her FIP benefits would be sanctioned from December 1, 2010, through February 28, 2011.

The Department received the Claimant's request for a hearing on November 29, 2010.

The penalty for noncompliance without good cause is Family Independence Program (FIP) closure and the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for not less than three calendar months unless the client is excused from the noncompliance as noted in First Case Noncompliance Without Loss of Benefits below.
- For the second occurrence on the FIP case, close the FIP for not less than three calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months.

The sanction period will begin with the first pay period of a month. Penalties are automatically calculated by the entry of noncompliance without good cause in Bridges. This applies to active FIP cases, including those with a member add who is a work eligible individual (WEI) JET participant. BEM 233A.

A timely hearing request is a request received anywhere in the department within eleven days of the effective date of a negative action. When the 11th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday.

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, reinstate program benefits to the former level for a hearing request filed because of a negative action.

If a hearing request is filed timely and program benefits are restored, recoup overissuances if:

- The request is later withdrawn.
- The Michigan Administrative Hearing System (MAHS) denies the request.
- The client or authorized hearing representative fails to appear for the hearing and MAHS gives you written instructions to proceed.
- If instructions have not arrived within two weeks, call the MAHS office in Lansing.
- The hearing decision upholds the department's action.

Calculate the overissuance from the date the negative action would have taken effect until the date the negative action is subsequently implemented.

In this case, the Claimant was an ongoing FIP recipient, and the Department had referred her to the JET program as a condition of receiving FIP benefits. The Department found the Claimant to be noncompliant with the JET program. The Department was set to sanction the Claimant's FIP benefits as of December 1, 2010, but this sanction was put on hold due to a timely request for an administrative hearing received by the Department on November 29, 2010.

The Claimant does not dispute that she was noncompliant with the JET program without good cause, but argued that her sanction should not have started until January 1, 2011.

The Department will start a FIP sanction for noncompliance with the JET program with the first pay period of a month.

The Claimant testified that she was told her sanction would not begin until January 1, 2011. In this case, the sanction did not begin on December 1, 2011, due to the Claimant's timely hearing request. The Department's representative testified that the Claimant received FIP benefits for December of 2010, as a result of her hearing request.

The Department has established that it processed the Claimant's FIP sanction in accordance with its policies.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's Family Independence Program (FIP) sanction for noncompliance with the Jobs, Education, and Training (JET) program.

The Department's Family Independence Program (FIP) eligibility determination is **AFFIRMED**. It is **SO ORDERED**.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 2, 2011

Date Mailed: June 2, 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 date of the rehearing decision.

KS/tg

cc:

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