

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-33322
Issue Nos.: 1038, 3019
Case No.: [REDACTED]
Hearing Date: July 7, 2011
DHS County: Macomb (50-36)

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 Sterling Heights, Michigan, on Thursday, July 7, 2011. The Claimant appeared and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUE

1. Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits and imposed a three-month sanction based on the failure to comply with the Jobs, Education, and Training ("JET") requirements?
2. Whether the Department properly terminated the Claimant's food assistance ("FAP") benefits effective May 1, 2011?

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 a FIP and FAP recipient.
2. On December 6, 2010, the Claimant signed the JET participation agreement(s). (Exhibit 5)
3. The Claimant did not participate in JET during the first two weeks of January 2011. (Exhibit 1)

4. A letter was mailed to the Claimant requesting the attendance sheets and/or job search logs. (Exhibit 2)
5. On March 23, 2010, the Department mailed a Notice of Non-compliance to the Claimant instructing him to appear for an April 5, 2011, triage appointment. (Exhibit 3)
6. The Claimant attended the triage; however, the Department found good cause was not established for the JET noncompliance. (Exhibit 4)
7. The Department pended the FIP case for closure effective May 1, 2011.
8. On May 1, 2011, both FIP and FAP benefits terminated.
9. On or about April 27, 2011, the Department received the Claimant's written request for hearing.

CONCLUSIONS OF LAW

As a preliminary matter, the Claimant's FAP benefits were closed in error. During the hearing, the Department acknowledged that the FAP benefits were improperly terminated. In light of the foregoing, the Department's closure of FAP benefits is REVERSED.

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, formerly known as the Family Independence Agency, administers FIP pursuant to MCL 400.10 *et seq.* and MAC R 400.3101-3131. FIP 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"), and the Bridges Reference Manual ("RFT").

The Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A. All Work Eligible Individuals ("WEI"), unless deferred, are required to engage in employment or participate in other approved activities. BEM 230A. The WEI is considered noncompliant for failing or refusing to appear and participate in the JET program or other employment service provider. BEM 233A. Failure to comply without good cause results in FIP closure. BEM 233A. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors beyond the control of the noncompliant person. BEM 233A. A claim of good cause must be verified and documented. BEM 233A. Good cause exists when a client is

physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. BEM 233A. The first and second occurrences of noncompliance result in a three-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 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. A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A.

In this case, the Claimant was aware of the JET participation requirements as detailed in the signed JET agreements. During the first week of January, the Claimant testified that his vehicle broke down requiring him to repair it. Due to the repair, the Claimant testified that during the second week of January, he was physically in pain and unable to participate in the JET program. The Claimant did not submit proof of his vehicle repair nor did he contact the Department, or the JET program, to notify them that he was not able to participate. A maximum of 16 hours of excused absences per calendar month is allowed; however, the Claimant had missed two weeks which exceeds the 16 hour maximum. There was no dispute that as of January 17, 2011, through February 14th, the Claimant was medically excused from JET participation. Ultimately, in the facts presented, the Department established it acted in accordance with Department policy when it terminated the Claimant's FIP benefits and imposed the three-month sanction. Accordingly, the Department's FIP termination is AFFIRMED.

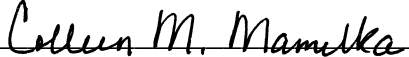
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's actions are AFFIRMED in part/REVERSED in part.

Accordingly, it is ORDERED:

1. The Department's termination of FAP benefits is REVERSED.
2. The Department shall re-instate the Claimant's FAP benefits from the date of closure and supplement for lost benefits that he was otherwise eligible and qualified to receive in accordance with Department policy.

3. The Department's termination of FIP benefits is AFFIRMED.
4. The three-month JET sanction is imposed.



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

Date Signed: July 12, 2011

Date Mailed: July 12, 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.

CMM/pf

cc:

