

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-42072
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: September 7, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Susan Burke

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 September 7, 2011 in Detroit, Michigan. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED] and [REDACTED].

ISSUE

Was the Department correct in its decision to impose a negative sanction on Claimant's Family Independence Program (FIP) case, close Claimant's FIP case and decrease Claimant's Food Assistance Program (FAP) benefits due to noncompliance with work-related activities?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FIP and FAP.
2. Claimant worked eight hours per week as a lunch aide and was required to attend Jobs Education and Training (JET) (JET) twelve hours per week.
3. Claimant did not participate in JET activities on May 26, 2011.
4. On June 9, 2011, the Department issued to Claimant a Notice of Noncompliance, stating that Claimant did not participate in JET as required on May 26, 2011, and

gave Claimant notice of an appointment (triage) to show good cause for noncompliance on June 16, 2011.

5. Claimant did not attend the triage of June 16, 2011.
6. At the triage of June 16, 2011, the Department found no good cause for Claimant regarding no attendance at required activities.
7. On June 29, 2011, the Department imposed a negative sanction on Claimant's FIP case for three months, closed Claimant's FIP case and decreased Claimant's FAP benefits.
8. This was Claimant's first penalty for noncompliance.
9. Claimant requested a hearing on July 6, 2011.

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.

FAP was 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 CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual, 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

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results in a twelve-month sanction. The goal of The FIP penalty policy is to bring the client into compliance. BEM 233A.

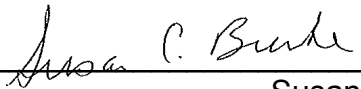
JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. In processing a FIP closure, the Department is required to send the client a Notice of Noncompliance (DHS-2444) which must include 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 was required to work twenty hours per week. Claimant worked as a lunch aide for eight hours per week and was required to attend JET for the remaining twelve hours per week. Claimant testified at the hearing that she had no problem working as a lunch aide, but she did have problems reporting to JET. When asked why she could report as a lunch aide and not report to JET, Claimant testified that the lunch aide position does not take a lot of thinking; she just picks up items and puts them in the classroom. Claimant went on to say that at JET, however, computer work is required and it is hard to process all the information with the anxiety she feels. Claimant stated that she suffers from a hearing loss and that she goes through periods of depression. Claimant also stated she has four children at home, ages [REDACTED]

I am not persuaded that Claimant had good cause to not to report to JET on May 26, 2011. A note from a doctor's office dated August 27, 2011 states that Claimant, "suffers from left hearing loss (conductive), anxiety disorder and insomnia. It is hard for her to concentrate and pay attention." However, this medical evidence does not substantiate Claimant being physically or mentally disabled to the point she would not be able to report to JET on May 26, 2011, and Claimant was clearly able to attend work as a lunch aide during that same time period. Similarly, Claimant does not claim that having four children in her home prevents her from working as a lunch aide, so it would follow that her family situation would not prevent her from attending JET on May 26, 2011. Therefore, the Department was correct in its decision to impose a negative sanction on Claimant's FIP case, which in turn decreased Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law decides that the Department was correct in its decision to impose a negative sanction on Claimant's FIP case, close Claimant's FIP case and decrease Claimant's FAP benefits. It is therefore ORDERED that the Department's decision is AFFIRMED.



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

Date Signed: 9/15/11

Date Mailed: 9/15/11

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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