

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-43720
Issue No. 1038
Case No. [REDACTED]
Hearing Date: August 15, 2011
Oakland 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 August 15, 2011 in Detroit, Michigan. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED], JET Coordinator. [REDACTED], Michigan Works Case Manager also testified on behalf of the Department.

ISSUE

Was the Department correct in its decision to close Claimant's Family Independence Program (FIP) case and decrease Claimant's Food Assistance Program (FAP) benefits due to failure to comply 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 FIP and FAP recipient.
2. Claimant contracted shingles and was not able to attend the Jobs, Education and Training job club.
3. A Michigan Works worker told Claimant that she was required to have medical clearance to return to JET.

4. Claimant did not obtain the clearance by March 28, 2011, so the Department issued a Notice of Noncompliance on April 4, 2011.
5. Claimant's case was set for a phone triage on April 28, 2011.
6. The Department attempted to contact Claimant by phone for the triage on April 28, 2011, but was unable to contact Claimant.
7. The Department found no good cause at the triage and closed Claimant's FIP case and decreased Claimant's FAP benefits on or about May 9, 2011.
8. On May 19, 2011, 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.

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

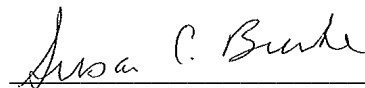
JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. In processing a FIP closure, the Department is required to send the client a Notice of Noncompliance (DHS-2444) which must include 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 credibly that she attended JET programs until she contracted shingles. A Work First worker told Claimant that she must present written medical clearance to return to the JET program. Claimant was unable to obtain medical clearance prior to March 28, 2011 (the date of noncompliance listed in the Notice of Noncompliance) because she was not insured. Claimant attempted to contact her prior DHS worker for assistance, but was unable to do so, perhaps due to retirement of her worker and reassignment of workers. Based on the above discussion, I find that Claimant was subject to factors that were beyond her control, and therefore had good cause for not attending the JET program. The Department was therefore not correct in its decision to close Claimant's FIP case and decrease 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 not correct in its decision to close Claimant's FIP case and decrease Claimant's FAP benefits. It is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall:

1. Reinstate Claimant's FIP case, effective the date of closure, on or about May 9, 2011, if Claimant is otherwise eligible.
2. Restore Claimant's FAP benefits, effective the date of decrease, on or about May 9, 2011, if Claimant is otherwise eligible.
3. Issue supplements for any missed or increased FIP or FAP payments.



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

Date Signed: 8/19/11

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Date Mailed: 8/19/11

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 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.

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