

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES


IN THE MATTER OF:



Reg. No.: 2011-46901  
Issue No.: 1038  
Case No.:   
Hearing Date: October 19 2011  
Wayne County DHS (15)

**ADMINISTRATIVE LAW JUDGE:** Lynn M. Ferris

**HEARING DECISION**

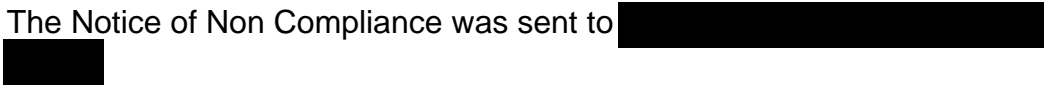
This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on October 19, 2011. The Claimant appeared and testified; , JET FIS appeared and testified on behalf of the Department of Human Services (DHS).

**ISSUE**

Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits due to Claimant's alleged noncompliance with Jobs, Education and Training (JET).

**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 benefit recipient.
2. The Department determined the Claimant was non compliant with Work First and scheduled a triage on June 23, 2011.
3. The Claimant was sent a Notice of Non Compliance on 6/13/11 to attend a triage scheduled on 6/23/11. Exhibit 1.
4. The Notice of Non Compliance was sent to 

5. At the time of the triage, and after 5/31/11, the Claimant was homeless because she was evicted from her home at [REDACTED].
6. The Claimant did not receive the Notice of Non Compliance. The Claimant did not attend the triage.
7. The Department closed the Claimant's cash assistance case on August 1, 2011 for non compliance with work related activities and imposed a 90 day sanction for non compliance with work related activities.
8. The Department did not conduct a triage, as the Claimant did not appear at the triage and the Department did not consider good cause because the Claimant did not attend the triage. Exhibit 1.
9. No witness on behalf of the Department with actual knowledge of what occurred on the date the triage was to be held appeared at the hearing.
10. DHS failed to hold a triage meeting because the Claimant did not attend the triage and based no good cause on her non attendance at the triage. Exhibit 2.
11. The Claimant provided an Order of Eviction dated 5/31/11 and was homeless on, and after that date until October 13, 2011. Claimant Exhibit 1.
12. The Department did not provide the basis with specificity as regards the notice of non compliance other than "5/23/11 no participation in required activity."
13. The Claimant requested a hearing on 7/29/11 protesting the closure of her FIP cash assistance case.

### **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), formerly known as the Family Independence Agency, 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 Reference Tables Manual (RFT).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A, page 1. Federal and state laws require each work eligible individual (WEI) in a FIP group to participate in Jobs, Education and Training (JET) Program or other employment-related activity unless

temporarily deferred or engaged in activities that meet participation requirements. *Id.* These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.*

JET is a program administered by the Michigan Department of Licensing and Regulatory Affairs through the Michigan Works! Agencies. *Id.* The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *Id.* The WEI is considered non-compliant for failing or refusing to appear and participate with JET or other employment service provider. *Id.* at 2.

The DHS did not present sufficient evidence to establish Claimant's noncompliance and did not establish that it properly conducted a triage. The testimony of the caseworker, who did not attend the triage, was that the case was closed because the Claimant did not show up for the triage. It could not be determined that good cause was considered even though the Claimant did not attend and was not present.

Additionally the Claimant credibly testified that she did not receive the Notice of Non Compliance.

No witness on behalf of the Department with first hand knowledge of what occurred at the scheduled triage meeting appeared.

The undersigned cannot reasonably find that Claimant failed to meet a JET participation requirement without knowing what the JET requirements were, as none were specifically listed as considered by the Department at the triage and no Work First case notes were provided. Whatever reason for the non compliance of the Claimant, it was not established by the Department by the evidence it presented that a triage was held and a finding of no good cause made for non compliance with Work First requirements.

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 at 7. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. *Id.*

A triage must always be held regardless of the Claimant's non attendance and the Department must consider evidence of non compliance and whether the non compliance was based on good cause must be determined in all cases.

The Department did not present sufficient evidence to demonstrate compliance with Department policy referenced herein requiring a triage be held or to establish non compliance with the Work First program without good cause, and thus it has not met its

burden of proof. The Department's determination is REVERSED. Accordingly, it is found that DHS improperly terminated Claimant's FIP benefits.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP case effective June 30, 2011 and its determination is REVERSED.

Accordingly it is ORDERED:

1. The Department shall remove any disqualification sanction related to the improper finding of noncompliance from Claimant's disqualification history imposed on the Claimant with the August 1, 2011 case closure.
2. The Department shall initiate reinstatement of the Claimant's FIP benefits back to the date of closure August 1, 2011.
3. The Department shall supplement Claimant for any FIP benefits not received as the result of the improper FIP case closure.



Lynn M. Ferris  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: October 24, 2011

Date Mailed: October 24, 2011

**NOTICE:** Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

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- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

LMF/ hw

cc:

