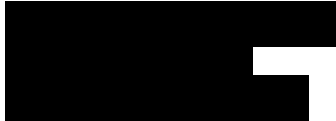


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No. 201148081
Issue No. 1038; 3002
Case No. [REDACTED]
Hearing Date: September 22, 2011
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant to MCL 400.9 and MCL 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was held on September 22, 2011, from Detroit, Michigan. The Claimant appeared and testified. Sharon Rowland, Family Independence Specialist, and Aquice Burdett, job coach/instructor, appeared and testified on behalf of the Department of Human Services (Department).

ISSUE

Whether the Department properly closed Claimant's Family Independence Program (FIP) case for three months and reduced Claimant's Food Assistance Program (FAP) benefits due to Claimant's failure to comply with her Jobs, Education and Training (JET) program requirements.

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 benefits.
2. On May 26, 2011, the Department sent Claimant a Notice of Noncompliance concerning her failure to participate in the required Jobs, Education and Training (JET) program and scheduled a triage on June 8, 2011. (Exhibit 3.)
3. Claimant participated in her June 8, 2011 triage.

4. At the triage, the Department found that Claimant had failed to comply with her JET requirements without good cause.
5. On June 13, 2011, the Department sent Claimant a Notice of Case Action, closing her FIP case from July 1, 2011 to September 30, 2011, and reducing her FAP benefits for the period from July 1, 2011 to August 31, 2011.
6. On June 24, 2011, Claimant timely requested a hearing to dispute the Department's action closing her FIP case and reducing her FAP benefits.

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, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

At the hearing, Claimant admitted that she had not complied with the JET program requirements but contended that she did not timely receive a letter of re-engagement in which JET offered her a last-chance opportunity to participate in the JET program. While there was inconsistency in the testimony from the Department concerning the date the letter was sent and the date Claimant was required to return to the JET program, there was no indication that Claimant's re-participation in JET would negate her noncompliance. To the contrary, while the letter stated that Claimant's failure to return to the JET program on the stated date would result in a recommendation of immediate case closure, the letter also stated that it served as official notification of Claimant's failure to comply with the JET obligations and that this lack of participation was being reported to the Department. Thus, Claimant's timely receipt of the re-engagement letter and re-participation in the JET program would not have rendered her compliant with her JET obligations. In fact, Claimant had a significant record of noncompliance in this case during the period at issue when she was assigned to the [REDACTED]: the Department testified that in the first week of her JET program with [REDACTED] beginning April 25, 2011, Claimant participated in seven of thirty required hours of activity and in the subsequent two weeks she participated in zero of the thirty required hours of activity each week.

Claimant also contended, however, that she had good cause for her noncompliance with her JET obligations. 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. At the hearing, Claimant testified that she was unable to comply with her JET obligations because, at the same time that she was enrolled in the JET program, she spent considerable time at her children's school addressing issues with two of her children, significant enough to result in the involvement of Child Protective Services. Claimant testified that she had explained her situation to the Department at the June 8, 2011 triage.

The Department is required to determine good cause based on the best information available during the triage and prior to the negative action date. BEM 233A. In its triage results form, the Department concluded that Claimant had failed to participate in the JET requirements and there was no good cause. At the hearing, however, the Department was unable to testify that it considered Claimant's explanation for her noncompliance during the triage or why it concluded that she had not established good cause. While Claimant could have better communicated her situation to her JET worker, her explanation for her noncompliance was credible and created circumstances justifying her noncompliance. Thus, the Department improperly closed Claimant's FIP case on the basis that she had failed to comply with her JET obligations without good cause. The fact that Claimant signed the triage form did not reflect that she agreed with the Department's conclusion.

When it sanctioned Claimant's FIP case by closing it for ninety days, the Department also recalculated Claimant's FAP benefits, removing Claimant as a group member on the basis of her FIP disqualification, and reduced Claimant's FAP benefits for the period from July 1, 2011 to August 31, 2011. Because Claimant's FIP case was improperly closed, Claimant should not have been considered a disqualified member in the Department's calculation of her FAP benefits. BEM 233B; BEM 212. Thus, the Department improperly reduced Claimant's FAP benefits.

Accordingly, the action taken by the Department is REVERSED.


DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department's closure of Claimant's FIP case for three months for noncompliance with her JET obligations and the reduction of her FAP benefits are not in accordance with Department policy.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING:

1. Remove the negative case action closing Claimant's FIP case from July 1, 2011 to September 30, 2011 and reducing Claimant's FAP benefits from July 1, 2011, to August 31, 2011;

2. Begin reprocessing Claimant's FIP case in accordance with Department policy;
3. Issue supplements to Claimant for any missed FIP benefits from July 1, 2011 to September 30, 2011;
4. Recalculate Claimant's FAP budget for July 1, 2011 to August 31, 2011, adding Claimant as a qualified group member;
5. Issue supplements to Claimant for any FAP benefits she was entitled to receive from July 1, 2011 to August 31, 2011 but did not; and
6. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 09/28/11

Date Mailed: 09/29/11

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.

ACE/dj

cc:

[Redacted recipient list]