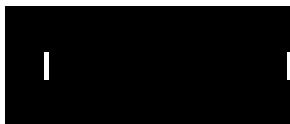


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 201149023
Issue No. 1038
Case No. [REDACTED]
Load No. 6304000000
Hearing Date: September 26, 2011
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Susan C. 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 26, 2011 from Detroit, Michigan. Claimant appeared and testified. The Department was represented by [REDACTED] FIS.

ISSUE

Was the Department correct in its decision to place a negative action on Claimant's Family Independence Program (FIP) case, close Claimant's FIP case and decrease Claimant's Food Assistance (FAP) benefits due to failure to participate in 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. The Department assigned Claimant to the Jobs Education and Training (JET) program.
3. On March 14, 2011, the Department held a triage with Claimant in which good cause was found for Claimant not attending JET.
4. The Department placed Claimant back into JET and issued a JET appointment for March 17, 2011.

5. Claimant did not attend the JET appointment on March 17, 2011.
6. The Department did not issue a Notice of Noncompliance as to the missed JET appointment on March 17, 2011.
7. The Department imposed a negative action on Claimant's FIP case, closed Claimant's FIP case, and decreased Claimant's FAP benefits, effective June 1, 2011, for failing to participate in work-related activities.
8. Claimant requested a hearing on August 9, 2011, 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.

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.

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

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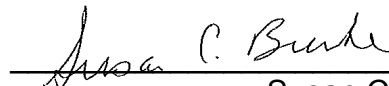
233A. In processing a FIP closure, the Department is required to send the client a Notice of Noncompliance (DHS-2444) which must include the date(s) of the noncompliance, the reason the client was determined to be noncompliant, and the penalty duration. BEM 233A. In addition, a triage must be held within the negative action period. BEM 233A.

In the present case, the Department placed Claimant back into JET after a triage finding of good cause. Claimant did not attend an appointment for JET following triage. However, the Department did not issue a Notice of Noncompliance as required by policy to allow Claimant to establish good cause for the missed appointment. Rather, the Department imposed a negative sanction on Claimant's case and closed Claimant's case without following its own procedure. Based on the above discussion, the Department did not establish that Claimant failed to comply with work-related activities and the Department was therefore not correct in its decision to impose a sanction on Claimant's FIP case, 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 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 REVERSED. It is further ORDERED that the Department shall:

1. Remove the negative sanction on Claimant's FIP case.
2. Initiate reinstatement of Claimant's FIP case, effective June 1, 2011.
3. Restore Claimant's FAP benefits, effective June 1, 2011.
4. Issue supplements for any missed or increased FIP and FAP payments, if Claimant is otherwise eligible for FIP and FAP.



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

Date Signed: 9/30/11

Date Mailed: 9/30/11

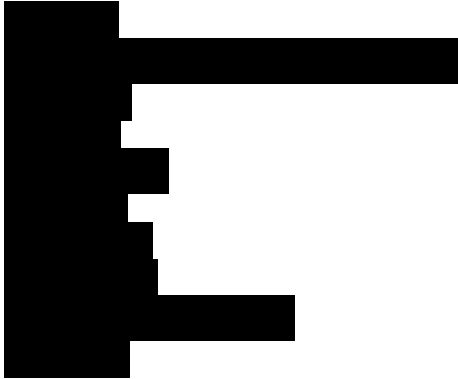
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NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration 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.

SCB/sm

cc:

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