

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

IN THE MATTER OF:



Reg. No. 2011 54675
Issue No. 1038, 6019
Case No. [REDACTED]
Hearing Date: October 26, 2011
County: Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 October 26, 2011 from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], FIS.

ISSUE

Whether the Department properly closed Claimant's case for benefits under Family Independence Program (FIP) based on Claimant's failure to participate in employment-related activities.

Whether the Department properly reduced Claimant's Food Assistance Program (FAP) benefits based on Claimant's failure to participate in employment-related activities.

Whether the Department properly denied Claimant's Child Development and Care (CDC) benefits based on Claimant's failure to provide provider information requested by the Department.

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 benefits and was required to participate in employment-related activities.
 Claimant was also a recipient of FAP CDC benefits.

2. On 8/15/11, the Department sent Claimant a Notice of Noncompliance scheduling a triage on 8/25/11.
3. Claimant participated did not participate in the triage.
4. The Department held the triage and found that Claimant had failed to comply with employment-related activities without good cause
5. Claimant did did not participate in employment-related activities.
6. Claimant had did not have good cause to not participate in employment-related activities.
7. On 8/29/11, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, denying Claimant's CDC case as of 8/29/11, reducing Claimant's FAP benefits, effective 10/1/11 based on a failure to participate in employment-related activities without good cause.
8. The Department imposed a first second third sanction for Claimant's failure to comply with employment-related obligations.
 The Department did not sanction Claimant for the noncompliance.
9. On 9/13/11, Claimant filed a request for a hearing disputing the Department's action.

CONCLUSIONS OF LAW

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

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 Mich Admin Code, R 400.3101 through R 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 Mich Admin Code, R 400.3001 through R 400.3015.

☒ The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

In order to increase their employability and obtain employment, work eligible individuals (WEI) seeking FIP are required to participate in the JET Program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A; BEM 233A. Failing or refusing to attend or participate in a JET program or other employment service provider without good cause constitutes a noncompliance with employment or self-sufficient related activities. BEM 233A.

Good cause is a valid reason for noncompliance which is beyond the control of the noncompliant person. BEM 233A. JET participants will not be terminated from a JET program without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A.

Good cause must be based on the best information available during the triage and prior to the negative action date. BEM 233A. Good cause may be verified by information already on file with the Department or the work participation program. BEM 233A. 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. 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.

CDC APPLICATION

Additionally, as regards the Claimant's CDC application, the application was denied 8/29/11 due to the Claimant's failure to file verifications regarding her provider by the due date required by the Verification Checklist. The Claimant admitted that she did not provide the verifications regarding her provider by the due date. Accordingly, the Department correctly denied the Claimant's CDC application.

WORK FIRST and Closure of FIP and Reduction of FAP benefits.

As regards the closure of the Claimant's FIP case and reduction of the Claimant's FAP benefits due to her failure to comply with work related activity requirements, the Department correctly imposed a 3 month sanction closing the Claimant's case for FIP and reducing her FAP benefits. Even though the Claimant did not receive the Notice of Non Compliance until after the triage was scheduled, the Claimant was afforded an opportunity to present her basis for good cause for her failure to complete the required job search hours at the hearing. Based upon the evidence submitted, the Claimant did not provide any additional information at the hearing which would support a finding of good cause for not completing the required job search hours.

The Claimant conceded that she was not meeting the job search hours requirement. Work First records submitted by the Department indicate that no job search hours were submitted after July 10, 2011. Exhibit 4. The Claimant also asserted that she had difficulty making her required job search hours after July 14, 2011 when she was involved in an auto accident and no longer had use of her car. While an auto accident may have excused the Claimant for some period of time, because the Claimant did not provide the Work First program with documentation of the car accident and did not request bus tickets so she could continue to meet her job search requirements she did not establish a basis to find good cause due to the auto accident or for the period of time thereafter when no job search hours were recorded. Based upon these facts the Claimant has not demonstrated good cause for her non compliance. The Department correctly imposed a 3 month sanction for non compliance.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly closed Claimant's FIP case. improperly closed Claimant's FIP case.

properly reduced Claimant's FAP benefits improperly reduced Claimant's FAP benefits.

properly denied the Claimant's CDC application improperly closed Claimant's CDC case.

DECISION AND ORDER

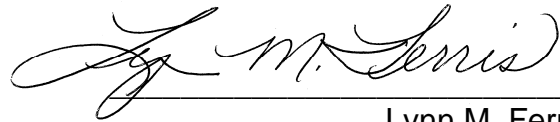
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly. did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record.

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THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:



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

Date Signed: November 1, 2011

Date Mailed: November 1, 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:

- 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

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cc:

