

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 15171
Issue No.: 1038, 3029
Load No.: [REDACTED]
Hearing Date: January 12, 2012
Oakland County DHS (02)

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 January 12, 2012 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED] [REDACTED] JET Coordinator appeared and testified.

ISSUE

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

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 benefit recipient.
2. The Claimant and her spouse were assigned to attend the Work First program. The Claimant sought, and was granted, a deferral due to her medical conditions.
3. The Claimant's spouse also sought a deferral to care for his wife. The Claimant's spouse's deferral was denied.
4. The Claimant's spouse was assigned to attend JET Orientation on 9/9/11 or 9/15/11 and did not attend either orientation. Exhibit 1.

5. The Claimant advised her then-caseworker, who assisted her with the deferral that her husband had left the state to participate in a 16-week training program for employment. The Claimant left her caseworker several messages with no response.
6. At the time of the hearing the Claimant's spouse was still attending the employment training in [REDACTED] and was out of the State of Michigan.
7. The Department sent the Claimant a Notice of Non Compliance dated 10/13/11 due to her spouse's failure to attend orientation.
8. A telephone triage was held on 10/24/11, at which time the Claimant's spouse advised the Department that he no longer resided in Michigan and was participating in a training program to obtain employment and that he would not be returning to Michigan.
9. The Department found that the Claimant's spouse had not demonstrated good cause for failing to attend orientation based upon the date that the Claimant's spouse left the state and that the Claimant had failed to advise the Department that he had left the state and imposed a three month sanction, closed the Claimant's FIP case and reduced the Claimant's FAP benefits removing the Claimant's spouse from the FAP group.
10. A Notice of Case Action dated 11/14/11 closed the Claimant's FIP case effective 12/1/11 and reduced the Claimant FAP benefits for non compliance with work related activities and imposed a 3 month sanction. This was the Claimant's first sanction.
11. On 11/28/11, Claimant requested an administrative hearing to dispute the FIP benefit termination and FAP benefit reduction for non compliance without good cause with the JET program requirements.

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.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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

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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.

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A at 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 Energy, Labor and Economic Growth 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.*

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause: failing or refusing to appear or participate with the work participation program

DHS regulations provide some guidance on this issue elsewhere in their policy. A client's participation in an unpaid work activity may be interrupted by occasional illness or unavoidable event. BEM 230 at 22. A Work First participant's absence may be excused up to 16 hours in a month but no more than 80 hours in a 12-month period. *Id.*

In the present case, the Claimant's spouse was found non compliant because he did not attend the Work First orientation as scheduled. The Department sanctioned the Claimant for non compliance, after it determined at the triage that the Claimant's spouse had not demonstrated good cause for failing to attend orientation. The finding by the Department was based on the fact that the Claimant's spouse had not left the State of Michigan prior to orientation date(s) and that the Claimant did not advise the Department that her spouse had left the state. The Department also was advised at the triage that the spouse would fax documents to the Department to clarify when the training program began. No documents were received by the Department thereafter. The Claimant did not attend the triage, and her spouse did not testify at the hearing.

The claimant credibly testified that when she received the Notice of Appointment to attend orientation for her spouse she called her then-worker, Mrs. Smith, to advise that her spouse had left the State of Michigan. The claimant left several messages advising her worker that her spouse had left the State to attend a training program. The Claimant did not hear back from her caseworker. The Claimant testified that her spouse left during the second week of September 2011. Around September 9th, she called her

worker at that time. The claimant has established by her testimony that her spouse had left the State around September 9, 2011, and was not in the State of Michigan and intended to permanently leave the State to seek employment by September 15, 2011. At the time of the hearing the Claimant's spouse was still in [REDACTED] and attending the training program. Also persuasive was the Claimant's testimony that prior to receiving the Notice of Appointment, her caseworker advised that her spouse's deferral was pending and that she could ignore a Notice of Appointment until the deferral was decided. The Department did not establish when the spouse's request for deferral was denied and believed the Notice of Appointment established the deferral denial.

Based on these facts, it is determined that the Claimant advised the Department that her spouse had left the State of Michigan and intended to remain out of the State to become employed. That notice should have caused the removal of her spouse from the group for purposes of calculating the Claimant's FIP and FAP benefits- and the benefits should have been recalculated. The Department should have, based on the information provided by the Claimant, changed the Claimant's group to delete her husband as a group member and correct the requirement that her husband attend Work First.

The fact that the Claimant called [REDACTED], who she believed to be her caseworker, instead of the specialist listed on the Notice of Appointment was not fatal because, Claimant gave several notices to the Department to a person who she reasonably believed to be her case-worker. The Claimant's testimony regarding the notice to her case worker was not rebutted by the Department at the hearing. While there is a discrepancy regarding whether the spouse's training program began prior to the JET orientation appointment, or whether he was present in the state at that time, the Claimant's testimony based upon her first hand knowledge was believable regarding when he left and she did not participate in the triage.

Based on all the testimony presented at the hearing, the Claimant's testimony as to facts within her personal knowledge was credible and established that her husband was not required to attend orientation, as he was not residing in the State of Michigan and gave the Department notice that her spouse had left the State. Under these facts the Department's request that the Claimant's spouse attend orientation and closure of the FIP case and reduction of the FAP case due to non compliance without good cause was in error.

Based on the presented evidence, the testimony of the witnesses and the exhibits, it is determined that the Department took incorrect action when it found no good cause for the Claimant's spouse's failure to attend Work First orientation and closed the Claimant's FIP case and reduced the Claimant's FAP benefits for that reason. Its determination and actions are not supported by the preponderance of the evidence presented at the hearing. The FAP benefits were properly reduced by the Department

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as the Claimant's spouse was out of the State and thus no longer a group member, however he should not have been removed due to the non compliance with work related activities. BEM 212, BEM 210.

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 benefits effective 12/111 based on noncompliance with JET participation. The actions taken by DHS are REVERSED.

Accordingly it is ORDERED:

1. The Department shall reopen and reinstate the Claimant's FIP case retroactive to the date of closure, December 1, 2011, and shall recalculate the Claimant's FIP benefits to remove her husband as a group member when calculating the Claimant's FIP benefits. The Department shall recalculate the benefits from, and after 9/9/11, the date the Claimant advised the Department that her spouse no longer resided in the State in accordance with Department policy. .
2. The Department shall issue a supplement to the Claimant for any FIP benefits she was otherwise entitled to receive retroactive to the date of closure (12/1/11) in accordance with Department policy.
3. The Department shall remove any sanction that it imposed as a result of the October 24, 2011 triage from the Claimant's case record, and shall correct its records accordingly.
4. As regard the FAP benefits, as the Claimant's spouse was out of the State of Michigan the Department correctly removed him from the FAP group participation, and thus no action is required to be taken to correct or supplement the FAP benefits however, the Claimant's FAP benefits shall be recalculated from, and after September 9, 2011, the date the Claimant advised the Department that her spouse no longer resided with her and left the State of Michigan in accordance with Department policy.


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

Date Signed: January 17, 2012

Date Mailed: January 17, 2012

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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.

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:

