

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

IN THE MATTER OF:



Reg. No. 2012-4487
Issue No. 1038; 3029
Case No. [REDACTED]
Hearing Date: November 16, 2011
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 November 16, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included FIM [REDACTED]

ISSUE

Whether the Department properly imposed a sanction, closed Claimant's case for benefits under the Family Independence Program (FIP) and reduced Claimant's Food Assistance Program (FAP) benefits based on Claimant's spouse's failure to participate in employment-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 recipient of FIP and FAP benefits and his wife was required to participate in employment-related activities.
2. On August 12, 2011, the Department sent Claimant a Notice of Noncompliance which alleged a date of June 23, 2011 as the date of non-participation of required activity.
3. All evidence with regard to alleged noncompliance related to dates other than June 23, 2011.

4. A triage was held with Claimant present and no good cause was found for non-participation.
5. The Department closed Claimant's FIP case and reduced Claimant's FAP benefits, effective October 1, 2011 based on Claimant's spouse's failure to participate in employment-related activities without good cause.
6. The Department imposed a sanction on Claimant's FIP and FAP cases due to Claimant's spouse's failure to comply with employment-related obligations.
7. On September 21, 2011, 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.

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.

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 the present case, on August 12, 2011, the Department sent Claimant a Notice of Noncompliance which alleged a date of June 23, 2011 as the date of Claimant's spouse's non-participation in required activity. At the hearing, all evidence with regard to alleged noncompliance referred to dates other than June 23, 2011. The Department did not follow its own policy in not including the alleged dates of noncompliance in its Notice of Noncompliance. In particular, a Jobs, Education and Training Notice issued to Claimant's spouse on June 2, 2011 indicates an appointment date of June 14, 2011. The alleged missed appointment of June 14, 2011 was not included in the Notice of Noncompliance.

In addition, Claimant testified credibly that he did not receive the Appointment notice instructing his wife to attend JET. Claimant further testified that Claimant's wife could not attend JET due to her mental illness.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated within the record, the Administrative Law Judge concludes that the Department improperly imposed a sanction, closed Claimant's FIP case and reduced Claimant's FAP benefits.

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 not act properly.

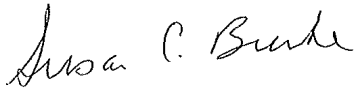
Accordingly, it is ORDERED that the Department's decision is REVERSED for the reasons stated within the record.

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

1. Remove the sanction imposed on Claimant's FIP and FAP case.
2. Initiate reinstatement of Claimant's FIP case, effective October 1, 2011 if Claimant is otherwise eligible for FIP.
3. Initiate restoration of Claimant's FAP benefits, effective October 1, 2011, if Claimant is otherwise eligible for FAP.

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4. Initiate issuance of supplements to Claimant for FIP and FAP for any missed or increased payments, October 1, 2011 and ongoing, 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: 11/23/11

Date Mailed: 11/23/11

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.

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Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

SCB/ hw

cc:

