

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

IN THE MATTER OF:



Reg. No.: 20125417
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: November 17, 2011
County: Wayne County DHS (57)

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 November 17, 2011 from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], FIM and [REDACTED]son, FIS.

ISSUE

Whether the Department properly closed Claimant's case for benefits under Family Independence Program (FIP) and reduced the Claimant's Food Assistance (FAP) benefits based on Claimant'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 was required to participate in employment-related activities.
2. On 8/8/11, the Department sent Claimant a Notice of Non Compliance scheduling a triage on 8/23/11.
3. The Claimant did not participate in the triage.
4. 8/23/11, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case for 90 days and reducing Claimant's FAP benefits,

effective 10/1/11 based on a failure to participate in employment-related activities without good cause.

5. The Department imposed a first sanction (90 days) for Claimant's failure to comply with employment-related obligations.
6. On 10/10/11, 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.

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.

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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.

Additionally, in this case the Department stated that the Claimant was non compliant. The Notice of Noncompliance indicated "7/27/11 missed appointment/meeting". Although the MIS case notes state a triage was held the notes state "Ms Seay and myself were present. The client failed to attend the scheduled appointment. Her case was sanctioned 90 days." No other information was provided about the triage.

At the hearing, no one from Work First or the Department with first hand knowledge appeared to testify about the facts and circumstances of non compliance. The Claimant advised that she had met her participation hours and the MIS notes did not establish that she missed a meeting or appointment on July 27, 2011. Therefore the Claimant has demonstrated that she was not in non compliance and the Department did not meet their burden of proof to establish the basis for non compliance. Given the fact that the Department did not establish the basis for non compliance, the issue of good cause does not have to be discussed or determined.

The Department did not sustain its burden of proof and did not indicate with any specificity the basis for non compliance other than 7/27/11 non participation contained in the Notice of 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.

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.

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

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

1. The Department shall initiate removal of the 3 month sanction it imposed on the Claimant's case effective 9/1/11 for non compliance without good cause with employment related activities, and delete the sanction from the Claimant's case record.
2. The Department shall initiate reopening the Claimant's FIP case retroactive to the date of closure (9/1/11).
3. The Department shall initiate issuance of a supplement to the Claimant for any FIP benefits the Claimant is otherwise entitled to receive in accordance with Department policy.
4. The Department shall initiate reinstatement of the Claimant to her FAP group, effective 9/1/11, and issue a supplement to the Claimant for any FAP benefits the Claimant is otherwise entitled to receive, in accordance with Department policy.



Lynn M. Ferris
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:

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- 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

LMF/hw

cc:

