

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2012-54343
Issue No. 1038, 3039
Case No. [REDACTED]
Hearing Date: June 21, 2012
Wayne County DHS (41)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Thursday, June 21, 2012. The Claimant appeared and testified. [REDACTED]

[REDACTED] appeared on behalf of the Department of Human Services ("Department")

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits based on the failure to comply with the Jobs, Education, and Training ("JET") program?

Whether the Department properly reduced the Claimant's food assistance benefits ("FAP") based on the JET non-compliance?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was a FIP and FAP recipient.
2. The Claimant and her spouse were temporarily deferred from the participating in the JET program due to alleged disabilities. (Exhibit 1)
3. On March 21, 2012, the Medical Review Team ("MRT") found the Claimant not disabled.

4. On March 22, 2012, the Department sent a Work Participation Program Appointment Notice instructing the Claimant to report to the JET program on April 4, 2011. (Exhibit 3)
5. The Claimant attended the JET appointment and notified her case worker that she was working 30 hours a week.
6. On April 10, 2012, the Department notified the Claimant that her spouse was found not disabled. (Exhibit 2)
7. On April 12, 2012, the Claimant did not attend the JET program.
8. On May 1, 2012, a Notice of Non-compliance was sent to the Claimant stating the Claimant failed to participate in required activity resulting in a triage scheduled for May 10, 2012. (Exhibit 9)
9. Prior to the triage, the Claimant made arrangements with the Department to participate in triage by telephone.
10. On May 10, 2012, the Department did not call the Claimant and the triage was not held.
11. On May 10, 2012, a Notice of Case Action was mailed to the Claimant informing her that her FIP benefits would close and her FAP benefits would be reduced effective June 1, 2012 based on the Claimant's failure to participate in the JET program. (Exhibit 10)
12. On May 11, 2012, a telephone triage was held between the Claimant and case manager.
13. As a result of the triage, a no good cause determination was made.
14. On May 18, 2012, the Department received the Claimant's written request for hearing. (Exhibit 11)

CONCLUSIONS OF LAW

As a preliminary matter, both the Claimant and her spouse were found to be non-compliant with the JET program without good cause. The MRT determination that the Claimant's spouse was not disabled has been appealed. As a result, the termination of FIP benefits and the reduction of FAP benefits relates to the non-compliance of the Claimant, and not her spouse.

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.* The Department of Human Services, formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq.* and Michigan Administrative Code, Rules 400.3101-3131. Department policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Bridges Reference Tables (“RFT”).

The Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 233A. All Work Eligible Individuals (“WEI”), and non-WEIs, are required to work or engage in employment and/or self-sufficiency-related activities. BEM 233A. Failure to participate in employment or self-sufficiency-related activities without good cause is penalized. BEM 233A. Penalties include a delay in eligibility at application, ineligibility, or case closure for a minimum of 3 months for the first episode of non-compliance, 6 months for the second occurrence, and a lifetime closure for the third episode of non-compliance. BEM 233A. Good cause is a valid reason for non-compliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the non-compliant person. BEM 233A.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A. Clients can either attend the triage or participate in a conference call if physical attendance is not possible. BEM 233A. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A. Good cause is based on the best information available during the triage *and* prior to the negative action date. BEM 233A. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance or the date the client was considered to be non-compliant; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A. If good cause is established within the negative action period, benefits are reinstated and the client is sent back to the work participation program. BEM 233A.

In this case, the Claimant and her spouse were deferred from JET participation based on alleged disabilities. As required, the Department forwarded the medical information to the MRT for a determination of disability for purposes of the JET program. On March 21, 2012, the MRT found no disability resulting in the Claimant and her spouse being referred to the JET program. The Claimant, along with her spouse, attended the JET orientation. The Claimant failed to attend the JET program of April 12th, stating she was securing medical records on behalf of her spouse, as requested, to submit to the Department. The Claimant testified that she submitted the documentation which

included her paystubs on Friday, April 13, 2012. The JET case notes do not reflect this information.

On May 1st, the JET Non-compliance Notice was mailed instructing the Claimant to attend a May 10, 2012 triage. Prior to the triage, the Department agreed to let the Claimant participate in the triage by telephone. The triage was not held as scheduled and the Department pended the Claimant's FIP case for closure (and removed the Claimant from the FAP group resulting in a FAP reduction) without a good cause determination. The following day, the Department discovered that it had agreed to let the Claimant participate in the triage by telephone. The Department contacted the Claimant and conducted a triage. The Department determined that the Claimant had not met the minimum JET requirements without good cause. The Claimant's FIP benefits were scheduled for termination and the FAP benefits reduced effective June 1, 2012.

On May 24, 2012, the Claimant testified credibly that she again brought in the medical documentation and her paystubs to establish her good cause and JET compliance. The documentation was not accepted pending the outcome of this hearing. Conflicting evidence was presented regarding the Claimant's contact with her JET worker and the comments contained in the case notes. The Claimant's JET worker did not participate in the hearing process. Ultimately, in light of the conflicting evidence and the procedural error (pending the case for closure prior to holding the telephone triage as agreed), it is found that the Department failed to establish it acted in accordance with policy when it terminated the Claimant's FIP benefits and reduced the Claimant's FAP benefits. Accordingly, the Department's determination is REVERSED.

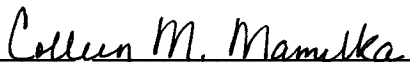
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Department acted in accordance with policy when it terminated the Claimant's FIP benefits and reduced the FAP benefits effective June 1, 2012.

Accordingly, it is ORDERED:

1. The Department's determination is REVERSED.
2. The three-month FIP sanction for JET non-compliance is not imposed.
3. The Department shall reinstate the Claimant's FIP benefits from the proposed date of closure and supplement for lost FIP benefits (if any) that the Claimant was otherwise eligible and qualified to receive in accordance with Department policy.

4. The Department shall reinstate the Claimant as a FAP group member from the proposed FAP reduction date and supplement for lost FAP benefits (if any) that the Claimant was otherwise eligible and qualified to receive in accordance with Department policy.
5. The Department shall send the Claimant back to the work participation program in accordance with Department policy.



Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan Director
Department of Human Services

Date Signed: June 26, 2012

Date Mailed: June 26, 2012

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.

2012-54343/CMM

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative Hearings
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CMM/cl

cc:

A large black rectangular redaction box covers the names and email addresses of the recipients listed under the 'cc:' field.