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

IN THE MATTER OF:

[redacted]

Reg. No.: 2012-66109
Issue Nos.: 1038, 3000
Case No.: [redacted]
Hearing Date: August 30, 2012
County: Wayne (82-43)

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 August 30, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [redacted].

ISSUE

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

2. On July 24, 2012, the Department sent Claimant a Notice of Noncompliance informing Claimant of a failure to participate in employment-related activities on June 26, 2012. (Exhibit 3)

3. On July 10, 2012, the Department sent Claimant a Notice of Case Action, closing Claimant's FIP case effective August 1, 2012, based on a failure to participate in employment-related activities without good cause. (Exhibit 1)

4. On July 20, 2012, Claimant requested a hearing disputing the Department's action.

5. Claimant also requested a hearing regarding her Food Assistance Program (FAP) benefits, but during the hearing, Claimant stated she no longer was requesting a FAP hearing.

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 1999 AC, Rule 400.3101 through Rule 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 1999 AC, Rule 400.3001 through Rule 400.3015.

In order to increase their employability and obtain employment, work-eligible individuals (WEI) seeking FIP are required to participate in the Jobs, Education and Training (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-sufficiency-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 at the triage and must be considered even if the client does not attend the triage. 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.

> Follow the procedures outlined below for processing the FIP closure:

- Send a DHS-2444, Notice of Employment and/or Self-Sufficiency-Related Noncompliance, within five business days after learning of the noncompliance. You must include the following information on the DHS-2444:

  - The date of the initial noncompliance**.**
  - All the dates, if addressing more than one incident of noncompliance.
  - The reason the client was determined to be noncompliant**.**
  - The penalty that will be imposed**.**

- Schedule a triage to be held within the negative action period.

- Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and can be based on information already on file with the DHS or the work participation program. Document the good cause determination on the sanction detail screen.

BEM 233A, pp. 8, 9.

In the present case, the Department representative testified that the correct date of alleged noncompliance was not placed in the Notice of Noncompliance. Therefore, the Department did not follow its procedures correctly in closing Claimant's FIP case.

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.

In addition, although Claimant also requested a hearing regarding FAP, Claimant stated at the hearing that she was no longer requesting a hearing with regard to FAP.

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.

☒ 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 from Claimant's FIP case.
2. Initiate reinstatement of Claimant's FIP case, August 1, 2012 and ongoing.
3. Issue FIP supplements, August 1, 2012 and ongoing, in accordance with Department policy.

IT IS FURTHER ORDERED that Claimant's request for hearing regarding FAP is DISMISSED pursuant to Claimant's request at the hearing.

Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 7, 2012

Date Mailed: September 7, 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.

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/pf

cc: [redacted]