STATE OF MICHIGAN

MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 2012-6910 Issue No. 1038; 3029 Case No.

Hearing Date: December 8, 2011
County: Wayne County

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Ad ministrative Law Judge upon Claimant's request for a hearing made purs uant 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 December 8, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Servic es (Department) included FIS, and Case Manager with Industries.

ISSUE

Whether the Department proper ly closed Claimant's case for benefits under Family Independence Program (FIP) based on Claimant's failure to participate in e mployment-related activities.

Whether the Department proper ly reduced Claimant's Food Assistance Program (FAP) benefits based on Claimant's failure to participate in employment-related activities.

FINDINGS OF FACT

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

- Claimant was an ongoing recipient of FIP and FAP benefits and was required to participate in employment-related activities.
- 2. The Department found good cause at a triage held with Claimant on June 23, 2011 and sent Claimant back to JET beginning June 27, 2011.

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3.	The Department did not send Claimant a notice of Noncompliance after June 27, 2011, even though the Department alleged that Claimant was noncompliant June 27, 2011 and ongoing.
4.	The Depar tment closed Claimant's FI P c ase and r educed Claimant's F AP benefits on August 1, 2011 based on a failu re to participate in e mployment-related activities without good cause.
5.	This was Claimant's ⊠ first ☐ second ☐ third sanction for failin g to comply with JET obligations.
6.	On October 13, 2011, Claimant requested 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 W ork Opportunity Reconc iliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq*. The Department (formerly k nown 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 amend ed, and is implemented by the federal regulations contained in Title 7 of the Code of Feder al Regulations (CFR). The Department (formerly known as the Fam ily 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 employ ability and obtain employment, work eligible individuals (WEI) seeking FIP are required to participat e in the JET Program or other employment-related activity unless temporarily defe rred 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 nonc ompliance which is beyond the control of the noncompliant per son. BEM 233A. JET participants will not be terminated from a JET program without the Departm ent first scheduling a triage m eeting with the client to jointly disc use noncompliance and good c ause. BEM 233A. Good cause must be based on the best information available at the triage and must be considered even if the

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client does not attend the triage. BEM 2 33A. 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, the Department found good cause at a triage on June 23, 2011 and sent Claimant back to JET on June 27, 2011. Thereafter the Department took negative action on Claimant's FIP and FAP cas es due to Claimant not participating in work related activities. However, the Department did not follow its own policy when it did no t send a Notice of Noncompliance to Claimant stating that she did not participate in work-related activities June 27, 2011 and ongoing.

Based upon the abov e Findings of Fact and 0 stated on the record, the Administrative Law J	•
	improperly closed Claimant's FIP case.
properly reduced Claim ant's FAP benefits benefits.	⊠ improperly reduced Claimant 's 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 \square AFFIRMED \boxtimes REVERSED for the reasons stated on the record.
oxtimes 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 cases.
2. Initiate reinstatement and res toration of Claimant's FIP and F AP c ases, effective August 1, 2011, if Claimant is otherwise eligible.
3. Initiate FIP and FAP supp lements, August 1, 2011 and ongoing, if Claimant is otherwise eligible for FIP and FAP.
Justa C. Brush

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

Date Signed: <u>12/15/11</u>

Date Mailed: <u>12/15/11</u>

NOTICE: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order. MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 <u>MAY</u> 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

Re consideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

SB/sm

