

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2012 73959
Issue No. 1038, 3029
Case No. [REDACTED]
Hearing Date: October 11, 2012
County: Oakland County DHS (02)

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 October 11, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], the claimant's witness and interpreter. Participants on behalf of the Department of Human Services (Department) included [REDACTED], JET Coordinator. Witnesses on behalf of the Work First Program were [REDACTED], Program Coordinator and [REDACTED], Case Manager.

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment-related activities without good cause.

Whether the Department properly 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 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.
2. On July 18, 2012, MRT denied Claimant's request for a JET deferral. The MRT Decision did impose restrictions on the Claimant's ability to participate, including lifting up to 10 pounds or less frequently and that she could stand or walk about 6 hours in an 8 hour workday. (Exhibit 1)

3. On August 1, 2012, the Department referred Claimant to the Work First Work Participation Program, and scheduled orientation for August 16, 2012.
4. Claimant did not attend the Work Participation Program, but showed up one day early and advised the Work First program that she had medical information indicating that she could not work. The medical information she showed the Work First program was from June 2012.
5. A Notice of Non Compliance was issued by the Department on August 20, 2012, which scheduled a triage which was held August 28, 2012. The Claimant attended the Triage. (Exhibit 3)
6. At the triage, the Claimant did not provide any new medical evidence and the Claimant's current medical reason for not attending Work First is the same medical conditions that the MRT reviewed when it found Claimant able to attend Work First subject to some restrictions. (Exhibit 1)
7. The Department held the triage and found that Claimant had no new medical evidence to present and found no good cause for the Claimant's failure to attend Work First, based upon the MRT decision. (Exhibit 4)
8. On August 20, 2012, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case and reducing her FAP benefits, effective September 1, 2012, for 3 months. The closure was based on Claimant's failure to participate in employment-related activities without good cause and reduced the Claimant's FAP benefits by removing the Claimant from her FAP group.
9. The Department imposed a first sanction for Claimant's failure to comply with employment-related obligations.
10. On August 28, 2012, 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

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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.

FIP Benefits

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. In this case, Claimant was a long-term recipient of FIP benefits who had never participated in employment-related activities. In August 2012, the Department notified Claimant that she was required to attend work-participation activities in order to continue her ongoing eligibility for FIP benefits. Claimant informed the Department that she was disabled and unable to work.

When an individual claims at anytime during an ongoing benefits period to be disabled or unable to participate in work or the Work Participation Program for more than 90 days because of a mental or physical condition, a two-step process follows: (i) the client must provide the Department with verification of the disability when requested and (ii) the disability must be established by a Medical Review Team (MRT) decision. BEM 230A. If MRT denies the deferral and marks the individual as work ready with limitations, the client must be referred to a Work Participation Program. BEM 230A.

In this case, MRT denied Claimant's JET deferral on July 18, 2012, finding that Claimant was capable of work with limitations. On August 1, 2012, the Department notified Claimant she must attend a Work Participation Program appointment pursuant to the Appointment Notice requiring her attendance at a Work Participation Program on August 16, 2012. Claimant did not appear at work first on the date assigned but did advise the Work First program on August 15, 2012 that she could not attend this appointment due to medical reasons. The Work First program was unaware of the MRT decision.

Failing or refusing to attend or participate in the Work Participation Program without good cause constitutes a noncompliance with employment or self-sufficiency related activities. BEM 233A. However, work participants will not be terminated from a Work Participation Program without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. Good cause is a

valid reason for noncompliance which is beyond the control of the noncompliant person and 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.

When the triage involves a client determined by MRT to be work ready with limitations who becomes noncompliant with the Work Participation Program, the Department is required to schedule a planning triage to (i) review the medical packet including the limitations identified by MRT on DHS-49-A-E; (ii) if necessary, revise the Family Self-Sufficiency Plan (FSSP) using the limitation identified on the DHS-49A-E and assign the client to medically permissible activities; and (iii) enter "client unfit" as the good cause reason if the noncooperation was related to the identified limitation or is an additional identified limitation. BEM 233A pp. 8.

In this case, the Department conducted a triage, but there is no evidence that it conducted a planning triage to consider Claimant's limitations. A traditional triage was held and it was determined based upon the MRT decision that the Claimant had no good cause. There was no evidence that the Department considered Claimant's limitations and whether her noncooperation was related to these limitations. Furthermore, there was evidence that when Claimant attended the Work Participation Program on August March 15, 2012, she was advised that if she was unable to work, she should not attend the program. The Department must serve individuals who are determined by MRT to be work ready or work-ready with limitations when the individual cannot be served by the Work Participation Program and must assign self-sufficiency activities up to the medically permissible limit of the individual. BEM 230A. In this case, the Department testified at the hearing that it did not inform the Work Participation Program of Claimant's limitations identified in the MRT decision. The facts in this case tend to demonstrate that the Department did not consider Claimant's work limitations or the work program's willingness or ability to accommodate her limitations in determining whether she had good cause for her noncompliance. By failing to hold a planning triage, the Department did not act in accordance with Department policy.

It also appears that the Claimant presented a note from her doctor to the Work First program, but did not present the information at the triage. It cannot be determined whether the information was new medical information but the form was not provided until August 28, 2012, at which time it was faxed to the Claimant's case worker. However, when an individual presents a doctor's note after the MRT decision but does not have new medical evidence or a new condition, policy requires that the Department send the DHS-518 to the doctor and request supporting medical evidence. BEM 230A. It is not clear from the record whether the Claimant's case worker processed the medical information further. and, in light of the Claimant's testimony that her medical reasons for not attending were the same as the previous medical reasons, it cannot be determined truly if the evidence is new. If the MRT decision is complete and the client states she has additional medical evidence or a new condition, the Department must

gather new verification and send it for an updated MRT decision. BEM 230A. Thus, the Department is required to review Claimant's new medical information and process it according to Department policy.

FAP Benefits

Because the Department improperly sanctioned Claimant's FIP case for her noncompliance with employment-related activities, the Department did not act in accordance with Department policy when it removed her as a qualified member of her FAP group based on her FIP-disqualification and reduced her FAP benefits. BEM 233B; BEM 212.

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.

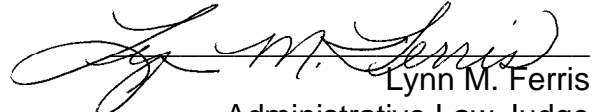
Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated above and on the record.

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

- 1.Remove the FIP employment-related sanction applied on or about September 1, 2012, from Claimant's record and correct the Department records;
- 2.Reinstate Claimant's FIP case as of September 1, 2012;
- 3.Allow Claimant to submit new medical documentation and process in accordance with Department policy;
- 4.Begin reprocessing Claimant's FAP budget for September 1, 2012, ongoing, to include Claimant as a qualified group member;
- 5.Issue supplements for any FIP and/or FAP benefits Claimant was eligible to receive but did not for September 1, 2012, ongoing; and

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6. Notify Claimant in writing of its decision in accordance with Department policy.


Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 10/19/2012

Date Mailed: 10/19/2012

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

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cc:

