

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

IN THE MATTER OF:



Reg. No.: 2012114
Issue No.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: October 26, 2011
County: Wayne County DHS (55)

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 26, 2011, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], FIM, Sharon Webber, FIS, and [REDACTED], FIS.

ISSUE

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

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 benefits and was required to participate in employment-related activities. Claimant was also a recipient of FAP benefits.

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2. On September 13, 2011 , the Department sent Claimant a Notice of Noncompliance scheduling a triage on 9/15/11.
3. Claimant did not participate in the triage.
4. The Claimant did not receive the Notice of Noncompliance until 9/16/11, after the triage was held. Claimant Exhibit 1.
5. The Claimant called the number on the Notice of Noncompliance and was told to contact her worker. The Claimant was unsuccessful in rescheduling the triage. Exhibit 1
6. The Notice of Noncompliance indicated the Claimant failed to participate in employment related activities on August 30, 2011. Exhibit 1.
7. The Claimant participated in community service on August 30, 2011 for 5.5 hours. For that week Claimant participated in community service for a 16.5 hours total. Claimant Exhibit 2.
8. The Department held the triage and found that Claimant had failed to comply with employment-related activities without good cause.
9. On 9/15/11, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, and reducing Claimant's FAP benefits, effective 10/1/11 based on a failure to participate in employment-related activities without good cause.
10. The Department imposed a second sanction for Claimant's failure to comply with employment-related obligations.
11. On 9/16/11, 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

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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.

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.

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, The Department's Notice of Noncompliance specifically provides notice to the Claimant that the date of Noncompliance was August 30, 2011. At the hearing it was established by the Claimant that she was in compliance with Work First participation, as she attended community service on August 30, 2011 through September 1, 2011 for a total of 16.5 hours of community service for the week. This information was unavailable to the Department at the time the triage was held, through no fault of the Claimant, as the Notice of Noncompliance dated 9/9/11 was not mailed until 9/13/11 and was not received by the Claimant until 9/16/11, the day after the triage.

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Based upon the foregoing the Department improperly closed the Claimant's FIP case and reduced her food assistance in error, as the Claimant clearly demonstrated her compliance at the hearing with the requirements of the Work First program.

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.

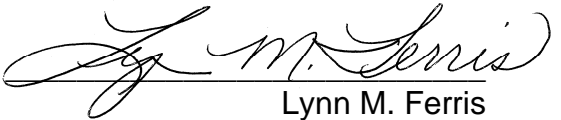
DECISION AND ORDER

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 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 second sanction it imposed 10/1/11 as a result of the triage held 9/15/11 which closed the Claimant's FIP case and removed the Claimant from her FAP group, and shall remove the sanction from the Claimant's case record.
2. The Department shall initiate reinstatement of the Claimant's FIP case retroactive to 10/1/11, the date of closure.
3. The Department shall issue a supplement to the Claimant for any FIP benefits the Claimant was otherwise entitled to receive in accordance with Department policy.
4. The Department shall initiate reinstatement of the Claimant to her FAP group and shall issue a supplement to the Claimant for any FAP benefits she was otherwise entitled to receive retroactive to the date of her removal (10/1/11) in accordance with Department policy.



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

Date Signed: October 31, 2011

Date Mailed: October 31, 2011

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 to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:



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