

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

IN THE MATTER OF:



Reg. No. 2012-12496
Issue No. 1038; 3029
Case No. [REDACTED]
Hearing Date: December 15, 2011
County: Wayne County

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 December 15, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED] and [REDACTED] with Work First.

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 and FAP benefits and was required to participate in employment-related activities.
2. On October 19, 2011, the Department sent Claimant a Notice of Noncompliance informing Claimant of a failure to participate in employment-

related activities on October 18, 2011 and scheduling a triage on October 31, 2011.

3. Claimant participated did not participate in the triage.
4. The Department held the triage and found that Claimant had failed to comply with employment-related activities without good cause did not hold the triage.
5. Claimant did did not participate in employment-related activities.
6. Claimant had good cause to not participate in employment-related activities, as she was homeless.
7. On November 1, 2011, the Department sent Claimant a Notice of Case Action showing an intended action of sanctioning Claimant's case, closing Claimant's FIP case and reducing Claimant's FAP benefits based on a failure to participate in employment-related activities without good cause.
8. On November 14, 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 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 employ ability 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 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.

It is clear from the testimony of all parties at the hearing that Claimant was homeless and therefore did not participate in work-related activities during summer and fall months of 2011. It is noted that the Department did not follow its own policy in placing in the Notice of Noncompliance specific dates of noncompliance other than October 18, 2011. Nevertheless, homelessness is good cause for non-participation in required activities. BEM 233A. The Department argues that Claimant should have notified the Department of her homelessness; Claimant says she did try to notify the Department of her homelessness. However, notifying the Department of homelessness is not a prerequisite to finding good cause, which I do find in this matter. Claimant's homelessness "likely prevent[ed] or significantly interfere[d] with employment and/or self-sufficiency-related activities." BEM 233A p. 5.

It is noted that Claimant signed a "Triage Results Form" which indicates that Claimant understood that a sanction was being imposed. The form did not indicate that Claimant agreed that she was non-participatory without good cause.

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

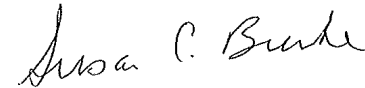
2012-12496/SCB

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 imposed on Claimant's FIP and FAP cases.
2. Initiate reinstatement and restoration of Claimant's FIP and FAP cases, effective December 1, 2011, if Claimant is otherwise eligible for FIP and FAP.
3. Initiate issuance of FIP and FAP supplements, December 1, 2011 and ongoing, for any missed or increased payments, if Claimant is otherwise eligible for FIP and FAP.



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

Date Signed: 12/21/11

Date Mailed: 12/21/11

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:

2012-12496/SCB

- 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

cc:

