

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2012-14189
Issue No. 1038; 3029
Case No. [REDACTED]
Hearing Date: January 9, 2012
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 January 9, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED] JET Case Manager, [REDACTED] FIM, and [REDACTED] JET Case Manager.

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 CDC benefits.

2. The Department presented no evidence of the Department issuing Claimant a Notice of Noncompliance informing Claimant of a failure to participate in employment-related activities and listing the date (s) of non-participation.
3. On November 9, 2011, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, and closing Claimant's CDC case, reducing Claimant's FAP benefits, effective December 1, 2011 based on a failure to participate in employment-related activities without good cause.
4. This was Claimant's first second third sanction for failing to comply with JET obligations.
 The Department did not sanction Claimant for the noncompliance.
5. On November 28, 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 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 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:

BEM 233A 9 of 12 FAILURE TO MEET EMPLOYMENT AND/OR SELFSUFFICIENCY-RELATED REQUIREMENTS: FIP BRIDGES ELIGIBILITY MANUAL STATE OF MICHIGAN DEPARTMENT OF HUMAN SERVICES

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- 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. 233A p. 8, 9

In the present case, at the hearing the Department did not submit for examination a Notice of Noncompliance. In processing the FIP closure, the Department was required to send Claimant a Notice of Noncompliance. See 233 A above. The Notice of Noncompliance, if any, would have shown the dates Claimant was allegedly in noncompliance with work-related activities. I cannot find that the Department properly followed policy in processing its negative action in Claimant's FIP and FAP cases, as there is no evidence of the Notice of Noncompliance, and no evidence that a triage was properly held. In addition, Claimant testified credibly that she was having issues with housing due to flooding and she notified her case worker of the issues in October of 2011. Claimant was given a new case worker during the time of her housing problems or shortly thereafter, and communication between Claimant and the Department was disrupted. It is likely that Claimant had good cause to not participate in employment-related activities, at least at the time of her housing issues in October of 2011.

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.

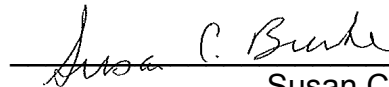
DECISION AND ORDER

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. Remove the sanction from Claimant's FIP and FAP cases.
2. Initiate reinstatement of Claimant's FIP case and restoration of Claimant's FAP benefits, effective December 1, 2011, if Claimant is otherwise eligible for FIP and FAP.
3. Initiate issuance of FIP and FAP supplements for any missed or increased FIP and FAP payments, December 1, 2011 and ongoing, 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: 1/18/12

Date Mailed: 1/18/12

2012-14189/SCB

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

SB/sm

cc:

