

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

IN THE MATTER OF:



Reg. No. 2012-20582
Issue No. 1038; 3029
Case No. [REDACTED]
Hearing Date: January 25, 2012
County: Macomb (20)

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 25, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED] Claimant's mother, and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] FIS Case Manager, [REDACTED] JET Coordinator and [REDACTED] FIS Case Manager.

ISSUE

Whether the Department properly closed Claimant's case for benefits under the 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 November 8, 2011, the Department sent Claimant a Notice of Noncompliance informing Claimant of a failure to participate in employment-

related activities on November 7, 2011 and scheduling a triage on November 17, 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 did not have good cause to not participate in employment-related activities.
7. On December 9, 2011, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case and reducing Claimant's FAP benefits, effective January 1, 2012 based on a failure to participate in employment-related activities without good cause.
8. This was Claimant's first second third sanction for failing to comply with JET obligations.
 The Department did not sanction Claimant for the noncompliance.
9. On December 19, 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.

In the present case, Claimant testified credibly that she attended the Work First appointment of November 7, 2011, that she arrived timely, but she was called away from the appointment when her son's school telephoned her, asking her to pick him up due to a rash. Claimant's mother testified credibly that Claimant arrived at her home on November 7, 2011 and both Claimant and Claimant's mother drove to Claimant's son's school to pick him up. A Department representative testified that sometimes Work First workers notate an early leave as a no show on case notes. Claimant testified that she called two Department workers on November 7, 2011, one of whom returned her call on November 8, 2011. Neither of the workers who were at the hearing could recall specifically if Claimant did or did not call them on November 7, 2011. The Work First worker who notated Claimant as a no-show for the November 7, 2011 appointment was not present at the hearing. I find it logical to conclude that Claimant did attend the Work First appointment of November 7, 2011, and that she had good cause to leave, that is, a valid reason for noncompliance, which was beyond the control of Claimant, in that she was required to pick up her son from school due to his having an illness.

It is noted that that there was some indication that Claimant did not attend an orientation on November 14, 2011, but that date was not included in the Notice of Noncompliance, as required by policy. BEM 233A.

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.

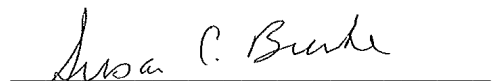
DECISION AND ORDER

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 January 1, 2012, if Claimant is otherwise eligible for FIP and FAP.
3. Initiate issuance of FIP and FAP supplements for any missed or increased payments, January 1, 2012 and ongoing, in accordance with policy.



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

Date Signed: 1/31/12

Date Mailed: 1/31/12

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:

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- 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

SCB/sm

cc:

