

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-21582
Issue Nos.: 1038, 3002
Case No.: [REDACTED]
Hearing Date: January 25, 2012
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on January 25, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

[REDACTED]

ISSUE

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

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.
2. Claimant was also an ongoing recipient of FAP benefits.
3. Claimant did not comply with her FIP employment-related activities.

4. On December 9, 2011, the Department sent Claimant a Notice of Noncompliance scheduling a triage on December 15, 2011.
5. Claimant did not participate in the triage.
6. The Department held the triage and found that Claimant had failed to comply with employment-related activities without good cause.
7. On December 15, 2011, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case effective January 1, 2012, based on Claimant's failure to participate in employment-related activities without good cause.
8. The Department imposed a first sanction to Claimant's FIP case for Claimant's failure to comply with employment-related obligations.
9. On December 27, 2011, 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 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 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. 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-sufficiency related activities. BEM 233A.

In this case, the Department testified that Claimant was required to participate in community service activities by working at the [REDACTED] establishment, two days a week from 8:30 am to 3:00 pm. Claimant missed two days of her community service obligations, and, according to the Department, failed to call to explain her absences. Claimant admitted that she did not fulfill her community service requirements on two occasions. Therefore, she was noncompliant with her employment-related obligations.

However, 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. In this case, the Department sent Claimant a Notice of Noncompliance on December 9, 2011, scheduling a triage on December 15, 2011. Claimant denied receiving the notice of the triage. Claimant admitted that the Notice was properly addressed to her. However, she testified that, at the time the notice was sent, she was facing an eviction from her home and trying to address that issue. Claimant produced an Order of Eviction indicating that an eviction judgment was entered against her on December 5, 2011, which established circumstances supporting her testimony that she did not receive the Notice. Because Claimant did not receive the Notice of Noncompliance and, as a consequence, did not attend the triage, she was unable to provide her good cause explanation for her noncompliance.

Good cause is a valid reason for noncompliance which is beyond the control of the noncompliant person. BEM 233A. Good cause may be verified by information already on file with the Department or the work participation program and **must** be considered even if the client does not attend. BEM 233A. Claimant credibly testified that she had informed her Michigan Works worker of her eviction. Claimant also testified at the hearing that she had informed her worker that she was pregnant and ill and presented evidence of her miscarriage in January 2012 to establish her pregnancy during the period at issue. Because these circumstances were not documented in Claimant's file with the Department or the work participation program, the Department could not consider these explanations when determining if good cause was established. Because Claimant did not receive notice of the triage and was denied the opportunity to explain her good cause for noncompliance, the Department did not act in accordance with Department policy when it closed and sanctioned Claimant's FIP case.

At the hearing, Claimant was also concerned about her FAP benefits being affected. The December 15, 2011, Notice of Case Action that closed Claimant's FIP case did not reference Claimant's FAP benefits. While the Department testified that Claimant's FAP benefits would not be affected because of her FIP disqualification, there was also evidence at the hearing that Claimant's FAP benefits had been reinstated pending the decision from the current hearing. However, as a single parent with a minor child under the age of six, Claimant is deferred from a FAP disqualification. BEM 233B; BEM 230A. Thus, any reduction in Claimant's FAP benefits was contrary to Department policy.

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 and reduced her FAP benefits.

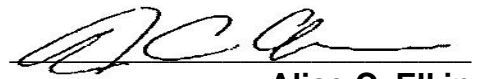
DECISION AND ORDER

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 negative action closing Claimant's FIP case effective January 1, 2012;
2. Remove the FIP sanction applied to Claimant's FIP case on January 1, 2012, from Claimant's file;
3. Recalculate Claimant's FAP benefits from January 1, 2012, ongoing, if Claimant's FAP benefits were reduced based on her FIP disqualification; and
4. Issue supplements for any FIP and FAP benefits Claimant was entitled to receive but did not from January 1, 2012, ongoing.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 1, 2012

Date Mailed: February 1, 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.

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

ACE/pf

cc:

