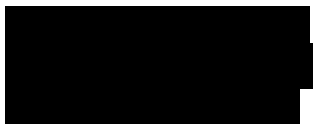


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2012 22192
Issue No.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: November 2, 2011
County: Wayne County DHS (76)

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 November 2, 2011 from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], 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 CDC benefits.

2. On June 6, 2011 the Claimant was sent an Appointment Notice to attend orientation on June 13, 2011.
3. The Claimant advised her caseworker that she could not attend the orientation because she was still recovering from an auto accident.
4. On 7/22/11, the Department sent Claimant a Notice of Noncompliance scheduling a triage on 8/2/11.
5. The Claimant did not receive the Notice of Noncompliance. The Claimant lives on the lower level (Apt 1). The Notice did not contain that information.
6. Claimant participated did not participate in the triage.
7. No evidence was presented by the Department regarding the triage, whether it was held or whether any finding of good cause was made.
8. Claimant did did not participate in employment-related activities.
9. Claimant had did not have good cause to not participate in employment-related activities.
10. On 8/3/11, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, reducing Claimant's FAP benefits, effective 9/1/11 based on a failure to participate in employment-related activities.
11. The Department imposed a first second third sanction for Claimant's failure to comply with employment-related obligations.
12. On 9/23/11, 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 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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

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, as regards the Department's closure of the Claimant's FIP case and reduction of the Claimant's FAP benefits due to her non compliance with work related activity requirements, the Department did not sustain its burden of proof. The

Department's Notice of Noncompliance indicated that Claimant failed to participate on 2/4/11 and the Notice did not provide how the Claimant did not comply as required by Department policy. When asked at the hearing the basis for the Claimant's non compliance, the Department was unable to provide any information regarding the non compliance and agreed that the Notice was unclear. The Department also did not introduce any evidence that a triage was held, and its outcome. Based on these proofs the Department did not meet its burden of proof to demonstrate a basis for the sanction and closure, and thus improperly imposed a 3 month sanction closing the Claimant's case for FIP and reducing her FAP benefits.

Even though the Department did not sustain its burden of proof, the Department's actions must also be reversed on the basis that the Claimant demonstrated good cause why she did not attend her Work First orientation appointment. Even though the Claimant did not receive the Notice of Non Compliance, the Claimant provided evidence that she was taken to the hospital in an ambulance due to a car accident on June 1, 2011 and was seen again on June 6, 2011. The Claimant also has braces on both her legs and uses a cane as a result of the auto accident. The Claimant credibly testified that she advised her caseworker of her condition at all times relevant to this matter and understood that she would be rescheduled. The Claimant has demonstrated good cause not to attend Work First on June 13, 2011, as she was under doctor's care and could not attend. Based upon the evidence submitted the Claimant demonstrated good cause and thus the Department incorrectly closed her case.

Based upon these facts, the Department did not demonstrate that it correctly imposed a 3 month sanction for non compliance closing the Claimant's FIP case and removing the Claimant from her FAP group.

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 is ordered, and shall initiate removal from the Claimant's case records the second sanction closing the Claimant's FIP case and removing the Claimant from her FAP group, which it imposed as a result of the triage 8/20/11.
2. The Department shall initiate reinstatement of the Claimant's FIP case retroactive to the date of closure, 9/1/11.
3. The Department shall issue a supplement for FIP benefits to the Claimant for benefits she was otherwise entitled to receive in accordance with Department policy.
4. The Department shall initiate reinstatement of the Claimant to her FAP group retroactive to the date of her removal (9/1/11).
5. The Department shall issue a supplement for FAP benefits to the Claimant for benefits she was otherwise entitled to receive in accordance with Department policy.



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

Date Signed: November 7, 2011

Date Mailed: November 7, 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:

201145762/SB

- 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

LMF/hw

cc:

