

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

IN THE MATTER OF:



Reg. No. 201238285
Issue No. 1038; 3029
Case No. [REDACTED]
Hearing Date: April 5, 2012
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 April 5, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

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

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.
2. On December 8, 2011, Claimant was referred to the Medical Review Team (MRT) to determine whether she was entitled to a deferral from participation in FIP employment-related activities.
3. On January 6, 2012, MRT denied Claimant's request for a JET deferral.
4. On January 9, 2012, the Department notified Claimant of the MRT decision and referred her to a work participation program on January 30, 2012.

5. Claimant did not attend the work participation program.
6. On February 7, 2012, the Department sent Claimant a Notice of Noncompliance scheduling a triage on February 14, 2012.
7. Claimant did participate in the triage.
8. The Department held the triage and found that Claimant had failed to comply with employment-related activities without good cause.
9. On February 14, 2012, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case and reducing her FAP benefits, effective March 1, 2012, based on Claimant's failure to participate in employment-related activities without good cause.
10. The Department imposed a first sanction for Claimant's failure to comply with employment-related obligations.
11. On February 27, 2012, 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.

FIP Benefits

In order to increase their employability and obtain employment, work eligible individuals (WEI) 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. In this case, Claimant was a long-term recipient of FIP benefits who had never participated in employment-related activities. In December 2011, the Department notified Claimant that she was required to attend work-participation activities in order to continue her ongoing eligibility for FIP benefits. Claimant informed the Department that she was disabled and unable to work.

When an individual claims at anytime during an ongoing benefits period to be disabled or unable to participate in work or the work participation program for more than 90 days because of a mental or physical condition, a two-step process follows: (i) the client must provide the Department with verification of the disability when requested and (ii) the disability must be established by a Medical Review Team (MRT) decision. BEM 230 A. If MRT denies the deferral and marks the individual as work ready with limitations, the client must be referred to a work participation program. BEM 230A.

In this case, MRT denied Claimant's JET deferral on January 6, 2012, finding that Claimant was capable of work with limitations. On January 9, 2012, the Department notified Claimant of the MRT denial and sent Claimant a Work Participation Program Appointment Notice requiring her attendance at a work participation program on January 30, 2012. Claimant admits that she did not attend this appointment.

Failing or refusing to attend or participate in the work participation program without good cause constitutes a noncompliance with employment or self-sufficiency related activities. BEM 233A. However, work participants will not be terminated from a work participation program without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. Good cause is a valid reason for noncompliance which is beyond the control of the noncompliant person and 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.

When the triage involves a client determined by MRT to be work ready with limitations who becomes noncompliant with the work participation program, the Department is required to schedule a planning triage to (i) review the medical packet including the limitations identified by MRT on DHS-49-A-E; (ii) if necessary, revise the Family Self-Sufficiency Plan (FSSP) using the limitation identified on the DHS-49A-E and assign the client to medically permissible activities; and (iii) enter "client unfit" as the good cause reason if the noncooperation was related to the identified limitation or is an additional identified limitation. BEM 233A.

In this case, the Department conducted a triage, but there is no evidence that it conducted a planning triage to consider Claimant's limitations. Claimant testified that she informed the Department at the triage that she did not attend the work participation appointment because she is unable to work. There was no evidence that the Department considered Claimant's limitations and whether her noncooperation was related to these limitations. Furthermore, there was evidence that when Claimant

attended the work participation program on March 19, 2012, she was advised that if she was unable to work, she should not attend the program. The Department must serve individuals who are determined by MRT to be work ready or work-ready with limitations when the individual cannot be served by the work participation program and must assign self-sufficiency activities up to the medically permissible limit of the individual. BEM 230A. In this case, the Department testified at the hearing that it did not inform the work participation program of Claimant's limitations identified in the MRT decision. The facts in this case show that the Department did not consider Claimant's work limitations or the work program's willingness or ability to accommodate her limitations in determining whether she had good cause for her noncompliance. By failing to hold a planning triage, the Department did not act in accordance with Department policy.

Furthermore, at the hearing, Claimant testified that she had new medical information, including a note from her doctor dated [REDACTED], indicating that she was unable to work. At the hearing, the Department indicated that it did not consider medical evidence unless it involved a new condition. However, when an individual presents a doctor's note after the MRT decision but does not have new medical evidence or a new condition, policy requires that the Department send the DHS-518 to the doctor and request supporting medical evidence. BEM 230A. If new medical evidence is not provided, the previous MRT decision stands and the case does not go back to MRT. BEM 230A. If the MRT decision is complete and the client states she has additional medical evidence or a new condition, the Department must gather new verification and send it for an updated MRT decision. BEM 230A. Thus, the Department is required to review Claimant's new medical information and process it according to Department policy.

FAP Benefits

Because the Department improperly sanctioned Claimant's FIP case for her noncompliance with employment-related activities, the Department did not act in accordance with Department policy when it removed her as a qualified member of her FAP group based on her FIP-disqualification and reduced her FAP benefits. BEM 233B; BEM 212.

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 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 FIP employment-related sanction applied on or about February 14, 2012, from Claimant's record;
2. Reinstate Claimant's FIP case as of March 1, 2012;
3. Allow Claimant to submit new medical documentation and process in accordance with Department policy;
4. Begin reprocessing Claimant's FAP budget for March 1, 2012, ongoing to include Claimant as a qualified group member;
5. Issue supplements for any FIP and/or FAP benefits Claimant was eligible to receive but did not for March 1, 2012, ongoing; and
6. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: April 10, 2012

Date Mailed: April 10, 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. (60 days for FAP cases)

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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
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/cl

cc:

