

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-5319
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: December 15, 2011
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Inkster, Michigan on Thursday, December 15, 2011. The Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") were [REDACTED].

ISSUE

Whether the Department properly reduced the Claimant's food assistance ("FAP") benefits effective October 1, 2011?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant is a FAP and cash assistance ("FIP") recipient.
2. The Claimant's group size was 4.
3. On September 7, 2011, the Department sent a Notice of Non-compliance to the Claimant instructing her to attend a triage appointment on September 15, 2011 at 11:00 a.m. to discuss whether good cause existed for her non-compliance with work-related activities. (Exhibit 1)
4. The Claimant did not attend the triage resulting in a no good cause determination.

5. On September 23, 2011, the Department notified the Claimant that her FAP benefits would be reduced from \$668.00 to \$526.00 effective October 1, 2011 based on her being removed as an eligible group member.
6. On October 10, 2011, the Department received the Claimant's timely written request for hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("RFT").

The Food Assistance Program ("FAP"), formerly known as the Food Stamp 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. 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 Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A. All Work Eligible Individuals ("WEI") are required to participate in the development of a Family Self-Sufficiency Plan ("FSSP") unless good cause exists. BEM 228. As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. BEM 233A. The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program or other employment service provider. BEM 233A. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. BEM 233A. Failure to comply without good cause results in FIP closure. BEM 233A.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A.

Non-compliance without good cause with employment requirements for FIP may affect FAP if both programs were active on the date of FIP non-compliance. BEM 233B. An individual is disqualified from a FAP group for non-compliance when the client had active FIP and FAP benefits on the date of the FIP non-compliance; the client did not comply with the FIP employment requirements; the client is subject to penalty on the

FIP program; the client is not deferred from FAP work requirements; and the client did not have good cause for the non-compliance. BEM 233B.

In this case, the Claimant was referred to triage due to non-compliance with the Jobs, Education, and Training ("JET") program. As required by policy, the Department sent a Notice of Non-compliance to the Claimant. The Claimant acknowledged receipt of the Notice. At the point of non-compliance, the Claimant received both FIP and FAP benefits. On September 15, 2011, a triage was scheduled; however, the Claimant did not attend. As a result, good cause for the JET non-compliance was not established. The Department removed the Claimant from the FAP benefits, reducing the group size from 4 to 3 and thus, reducing the FAP benefits from \$668.00 to \$526.00.


During the hearing, the Claimant testified that the reason for not attending the triage was that her daughter had a MRI scheduled for that date/time. The Claimant did not have any proof of this, so the undersigned extended this record to allow the Claimant until Wednesday, December 21, 2011 at 5:00 p.m. to submit verification of the MRI appointment. Nothing was received by the stated time. In light of the foregoing, the Claimant failed to establish good cause for not attending the scheduled triage.

The Claimant further testified that the Department improperly reduced her FAP benefits because she had submitted a timely hearing request. As acknowledged in the hearing, the negative action should have been removed; however, the error is harmless in that the Department ultimately established it acted in accordance with Department policy when it removed the Claimant from the FAP group based on the FIP non-compliance. Accordingly, the Department's determination is AFFIRMED.

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 acted in accordance with Department policy when it reduced the Claimant's FAP benefits.

Accordingly, the Department's FAP determination is AFFIRMED.


Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 22, 2011

Date Mailed: December 22, 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:
 - 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

CMM/cl

cc:

