

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201254806
Issue No: 1038
Case No: [REDACTED]
Hearing Date: August 21, 2012
Gladwin County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, an in-person hearing was held on Tuesday, August 21, 2012. Claimant appeared and provided testimony on her behalf. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Was Claimant entitled to a good cause triage meeting before the negative case action?

FINDINGS OF FACT

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

1. On June 22, 2011 Claimant, a FIP recipient, was not non-compliant with the JET program.
2. On April 11, 2012 at the hearing, the Department of Human Services (DHS) and Claimant agreed upon a compliance test to keep the FIP case open; at the hearing Claimant was still eligible for a compliance test because of non-compliance issued occurred prior to a policy change in October 2011.
3. On April 16, 2012, an Order of Dismissal was issued by the Administrative Law Judge (ALJ) based on the agreement above.
4. On May 9, 2012 the DHS proposed FIP termination based on noncompliance with the Order of Dismissal.

5. The DHS did not offer the Claimant a good cause triage meeting.

CONCLUSIONS OF LAW

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, R 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The DHS representative claims this ALJ should base his decision on violation by the Claimant with the Order of Dismissal issued by a prior ALJ. Without a triage meeting, instead of applying current DHS policy which provides for a meeting. BEM 233A, Page 7.

Administrative law judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals. Delegation of Hearing Authority, August 9, 2002, per PA 1939, Section 9, Act 280.

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.

Work participation program participants will not be terminated from the work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Locally coordinate a process to notify the work participation program case manager of triage meetings, including scheduling guidelines. BEM 233A, Page 7.

In this case, the FIP termination is based on non-compliance with employment and/or self-sufficiency-related activities. BEM 233A, Page 1. And this policy at page 7 required a triage meeting.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant was entitled to a good cause triage meeting before the negative case action.

Accordingly, FIP termination is **REVERSED** and reinstatement of benefits within 10 days is SO ORDERED.

/s/
William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 31, 2012

Date Mailed: August 31, 2012

NOTICE: Administrative Hearings 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. Administrative Hearings 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 mailing 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.

WAS/tb

cc:

