

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-7166
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: December 7, 2011
Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, a telephone hearing was held on December 7, 2011. The Claimant appeared and testified; Sharon Rowland, Family Independence Specialist appeared and testified on behalf of the Department of Human Services (DHS). [REDACTED], Retention Specialist, an employee of the Work First program, appeared as a witness for the Department of Human Services.

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits due to Claimant's alleged noncompliance with Jobs, Education and Training (JET).

FINDINGS OF FACT

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

1. Claimant was an ongoing FIP benefit recipient.
2. The Claimant was sent a Notice of Non Compliance on August 24, 2011 to attend a triage scheduled on August 31, 2011. Exhibit 1.
3. The Claimant received the Notice of Non Compliance. The Claimant attended the triage.
4. At the triage the Claimant was given a Form 754 (onetime forgiveness) and agreed to return to Work First on September 12, 2011 and resume 30 hours per

week participation and was to provide the Department with a completed Medical Needs form so a medical deferral could be reviewed. Exhibit 2.

5. The Claimant understood she was to return to Work First, but did not return on September 12, 2011 as scheduled.
6. The Department did not receive a completed Medical Needs Form from the Claimant.
7. On October 1, 2011, the Department closed and sanctioned the Claimant's FIP case for 90 days and removed her from her food assistance group due to non compliance without good cause.
8. The Claimant requested a hearing on September 28, 2011 protesting the closure of her FIP cash assistance case and her removal from her FAP group due to non compliance with work related activities.

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, 8 USC 601, *et seq.* The Department of Human Services (DHS), formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 1999 AC, Rule 400.3001 through Rule 400.3015.

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A at 1. Federal and state laws require each work eligible individual (WEI) in a FIP group to participate in Jobs, Education and Training (JET) Program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. *Id.* These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.*

JET is a program administered by the Michigan Department of Labor and Regulatory Affairs through the Michigan Works Agencies. *Id.* The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *Id.* The WEI is considered non-compliant for failing or refusing to appear and participate with JET or other employment service provider. *Id.* at 2.

The Claimant was sanctioned for non compliance with work related activities after she failed to comply with a one time opportunity, which she was offered by the Department after her triage determined she had not demonstrated good cause. The Claimant agreed to return to Work First September 12, 2011, but did not do so because she had a doctor's appointment. The Claimant did not call the Work First program to advise them of her appointment and did not report thereafter. Additionally, Claimant was given a Medical Needs Form to be completed by her doctor, because at the triage she indicated that the reason she did not attend Work First was due to medical reasons. The Department never received the Medical Needs Form, and based upon these circumstances closed the Claimant's FIP case and removed the Claimant from her FAP group thereby reducing her FAP benefits.

The applicable policy provides:

If the client **accepts** the offer to comply and agrees with the department's decision of noncompliance without good cause, use the first check box on the DHS-754 and document compliance activities. Include the number of hours of participation the client must perform to meet the compliance activity requirement. Advise the client that verification of the compliance is required by the due date on the DHS-754. BEM 233A, page 9.

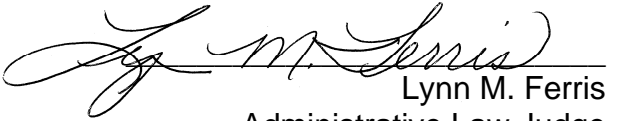
In this case the form 754 was produced as evidence by the Department. The form was signed by the Claimant. Based on the Claimant's testimony, she understood the terms of her agreement and failed to comply with the requirements of her agreement. Although the Claimant testified that she had turned in a Medical Needs Form, the Department never received the form and searched its file at the hearing. The Claimant's testimony in this regard is not credible, as she brought no evidence of any medical appointments nor did she produce any note from her doctor which would indicate a medical condition that required deferral. This decision was also influenced by the Claimant's testimony that she only missed a day or two without a doctor's note. The evidence presented by the Department indicated that she stopped attending after the week of June 29, 2011 with no hours of participation through July 2011. The Claimant voluntarily decided to stop attending and even after the triage was held and when she had been afforded an opportunity to demonstrate a medical needs deferral, did not do so and unilaterally decided not to return to Work First on September 12, 2011. The Claimant did not abide by the terms of the 754 agreement and thus the Department

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correctly imposed a 3 month sanction, properly closed her FIP case and reduced her FAP benefits by removing the Claimant from her FAP group.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly closed Claimant's FIP case and reduced the Claimant's FAP benefits effective October 1, 2011 for non compliance with work related activities and its determination is AFFIRMED.


Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/13/11

Date Mailed: 12/13/11

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 to:
Michigan Administrative hearings
Reconsideration/Rehearing Request

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P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/ hw

cc:

