

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

IN THE MATTER OF:



Reg. No.: 201272300
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 18, 2013
County: Wayne (#57)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 telephone hearing was conducted from Detroit, Michigan on Monday March 18, 2013. The Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) was [REDACTED] (Family Independence Specialist).

ISSUE

Whether the Department properly denied the Claimant's application for cash assistance ("FIP") benefits based on the failure to comply with the Jobs, Education, and Training ("JET") program?

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 Department received Claimant's application for FIP benefits on February 29, 2012.
2. The Claimant was temporarily deferred from the JET program.
3. On July 3, 2012, July 19, 2012 and July 20, 2012, the Department sent Work Participation Program Appointment Notices instructing the Claimant to attend the WorkFirst /JET orientation on July 16 & 23, 2012 and August 2, 2012. (Exhibit 1)

3. On August 8, 2012 the Department denied Claimant's FIP benefits effective March 16, 2012 for failure to remain in compliance with the JET program before case opening. (Exhibit 4)
4. On August 17, 2012, the Department received the Claimant's written request for hearing.

CONCLUSIONS OF LAW

The Department of Human Service policies are contained 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.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities. BEM 233A (December 2011), p. 1. The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program ("JET") or other employment service provider. BEM 233A, pp. 4, 5. 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 noncompliant person. BEM 233A, pp. 3, 4. An individual who identifies barriers, to include being physically or mental unfit for job activity, may be temporarily deferred from JET participation. BEM 229 (December 2011), pp. 1, 4. Failure by a client to participate fully in assigned activities while a FIP application is pending will result in automatic denial of a FIP group. A good cause determination is not required for applicants who are non-compliant prior to FIP case opening. The Department may extend the last day a client has to attend orientation when necessary.

Persons who identify a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred for up to three months. Verify the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs, or DHS-54E, Medical Needs - PATH, or other written statement from an M.D./D.O. Set the medical review date accordingly, but not to exceed three months. BEM 230A (December 2011), p. 8. If an individual claims a disability that will last longer than 90 days the Department should request verification of the disability and obtain a Medical Review Team (MRT decision).

In this case, the Claimant was temporarily deferred at application for further assessment or verification of alleged disability. Evidence indicates that no additional action was taken by the Department in regards to Claimant's reason for the deferral. As a result she was automatically referred back to the JET program when the deferral period ended. Claimant testified credibly that she attended the JET orientation on August 2, 2012 and provided the JET worker with medical documentation regarding her continuing disability. She was instructed to sign a blank piece of paper and told she could leave. The JET case notes do not reflect this information. No worker from the JET program participated in the hearing. The Department worker at hearing testified that she had no knowledge of what occurred on the case. According to the Department records, the Claimant had until August 5, 2012 to attend orientation before the case would be automatically closed for non-compliance. (Exhibit 2) Claimant further testified that she provided a Department Worker (different from the person that participated in the hearing) with additional medical documentation regarding her continuing disability.

The Department was required to obtain an MRT decision prior to the denial of FIP benefits. This was not done. In light of the foregoing, the Department failed to establish it acted in accordance with department policy when it denied the Claimant's application for FIP 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 not act in accordance with policy when it denied the Claimant's FIP benefits effective March 16, 2012.

Accordingly, the Department's FIP decision is hereby, **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall re-register and initiate processing the February 29, 2012 FIP application, to include appropriate WF/JET referrals after reasonable accommodations or MRT disability determinations are made, in accordance with department policy.
2. The Department shall notify the Claimant of any medical determinations and the FIP determination in accordance with Department policy.
3. The Department shall supplement for FIP benefits that the Claimant was

entitled to receive, if otherwise eligible and qualified, based on the February 29, 2012 application, in accordance with department policy.

M. Howie

MICHELLE HOWIE
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/28/2013

Date Mailed: 3/28/2013

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

MH/hw

cc:

