

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201275315
Issue No. 1038; 3029
Case No. [REDACTED]
Hearing Date: October 11, 2012
County: Wayne (43)

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 October 11, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Program Manager, and [REDACTED], Family Independence Specialist, from the Glendale/Trumbull office and [REDACTED], Family Independence Manger, from the Hamtramck office.

ISSUE

Whether the Department properly closed Claimant's Family Independence Program (FIP) case 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 March 20, 2012, Claimant's medical documents were referred to the Medical Review Team (MRT) to determine whether Claimant was entitled to a deferral from participation in FIP employment-related activities.

201275315/ACE

3. On May 21, 2012, MRT denied Claimant's request for a JET deferral.
4. On July 13, 2012, the Department sent Claimant a Work Participation Program Appointment Notice referring her to the JET program on August 1, 2012.
5. Claimant did not participate in the JET orientation.
6. On August 15, 2012, the Department sent Claimant a Notice of Noncompliance scheduling a triage on August 23, 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 August 15, 2012, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective September 16, 2012, and reducing her FAP benefits, effective September 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 August 31, 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

201275315/ACE

pursuant to MCL 400.10, et seq., and Mich Admin Code, R 400.3001 through R 400.3015.

Additionally, on August 15, 2012, the Department sent Claimant a Notice of Case Action advising her that her FIP case was being closed for a minimum of three months and her FAP benefits were being reduced based on her noncompliance with employment-related activities without good cause. The FAP benefits were reduced effective September 1, 2012. Although the Notice of Case Action indicates on the first page that Claimant's FIP case was closing as of September 16, 2012, the second page indicated that Claimant would not receive any further FIP benefits as of September 1, 2012.

FIP Benefits

In order to increase their employability and obtain employment, work eligible individuals (WEIs) 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 (December 1, 2011), p 1; BEM 233A (May 1, 2012), p 1.

The evidence in this case showed that Claimant had alleged a disability and sought a deferral from participation in JET activities. However, on May 21, 2012, the Department's Medical Review Team (MRT) denied the deferral, finding no disability. 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, p 12. The Department sent Claimant a July 13, 2012, Work Participation Program Appointment Notice requiring her attendance at a JET orientation on August 1, 2012. Claimant did not attend the orientation. At the hearing, Claimant testified that she appeared at the orientation site, advised the workers that she was unable to participate because she was unable to work, and they gave her a medical needs form and sent her home.

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. When the Department became aware that Claimant had not participated in the orientation, it sent Claimant an August 15, 2012, Notice of Noncompliance notifying her of the noncompliance with employment-related activities and scheduling a triage on August 23, 2012. 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, p 7. 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. Good cause must be based on the best information available during the triage and prior

to the negative action date and may be verified by information already on file with the Department or the work participation program. BEM 233A, p 8.

The Department testified that Claimant did not call or appear at the triage and, based on the information it had available to it, it found that Claimant had not complied with FIP employment-related activities without good cause. However, on August 31, 2012, the Department received a Medical Needs Form completed by Claimant's doctor. 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 a DHS-518 to the doctor and request supporting medical evidence. BEM 230A, p 13. If new medical evidence is not provided, the previous MRT decision stands and the case does not go back to MRT. BEM 230A, p 13. 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, p 13. At the hearing, Claimant testified that she had new medical conditions that she believed had not been previously considered by MRT. Because the Department received the completed Medical Needs form prior to the September 16, 2012, effective date of the negative action closing Claimant's FIP case, the Department was required to process the documents presented by Claimant in accordance with Department policy, which it failed to do in this case. See BEM 233A, p 8. 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 (December 1, 2012), p 2; BEM 212 (April 1, 2012), p 7.

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 September 1, 2012, from Claimant's record;
2. Reinstate Claimant's FIP case as of September 1, 2012;
3. Begin processing Claimant's medical documentation in accordance with Department policy;
4. Begin recalculating Claimant's FAP budget for September 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 September 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: 10/19/2012

Date Mailed: 10/19/2012

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)

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:

201275315/ACE

- 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

ACE/hw

cc:

