

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2013-31258
Issue No.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: January 17, 2013
Wayne County DHS (76)

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 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Thursday, January 17, 2013. The Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED]

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits effective December 1, 2012?

Whether the Department properly reduced the Claimant's food assistance ("FAP") benefits effective December 1, 2012?

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 was a FIP and FAP recipient.
2. On November 6, 2012, a Non-compliance warning was sent to the Claimant instructing her to appear for a re-engagement appointment on November 12, 2012. (Exhibit 3)
3. The Claimant did not appear at the re-engagement appointment resulting in a triage referral. (Exhibit 1; Exhibits 3, 4, 9, 10)

4. On November 14, 2012, a Notice of Non-compliance was sent to the Claimant instructing her to participate in a November 20th triage. (Exhibit 6).
5. On this same date, a Notice of Case Action was sent to the Claimant informing her that her FIP benefits would terminate and her FAP benefits would be reduced effective December 1, 2012 based on the JET non-compliance. (Exhibit 7)
6. The Claimant participated in the triage but failed to provide documentation to support a good cause finding for the failure to comply with the JET requirement.
7. The Department found no good cause for the JET non-compliance.
8. On November 14, 2012, the Department received the Claimant's written request for hearing protesting the imposition of the JET sanction. (Exhibit 8)

CONCLUSIONS OF LAW

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

As a preliminary matter, the Claimant appealed the termination of FIP benefits and the reduction of FAP benefits. Each program will be addressed separately.

FIP termination

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

The Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A (May 2012), p. 1. All Work Eligible Individuals ("WEI") are required to participate in the development of a Family Self-Sufficiency Plan ("FSSP") unless good cause exists. BEM 233A, p. 1; BEM 228 (December 2011), p. 3. As a condition of eligibility, all WEIs 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. Lack of transportation and/or domestic violence constitute good cause. BEM 233A, pp. 4, 5.

An individual who identifies barriers may be temporarily deferred from JET participation. BEM 229 (December 2011), p. 1. JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance 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.

In this case, the Claimant was non-compliant with the requirements of the JET program. As such, the Department sent a warning notice to the Claimant instructed to attend a re-engagement appointment. The Claimant did not attend resulting in the scheduling of the November 20th triage. The Claimant acknowledged that she failed to submit her job search logs nor did she provide any medical documentation that would have potentially deferred the Claimant from JET participation. The Claimant noted that in September she submitted to paystubs, each covering a 2-week period reflecting 39 hours on one and 34 on the other. The Claimant was required to participate 30 to 40 hours a week. The September 2012 paystubs did not meet the Claimant's JET requirements. Ultimately, in the facts presented, the Department established it acted in accordance with Department policy when it terminated the Claimant's FIP benefits based on JET non-compliance without good cause. Accordingly, the Department's FIP actions are AFFIRMED.

FAP reduction

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 ("CFR"). The Department, formerly known as the Family Independence Agency, administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3001 through R 400.3015.

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 (November 2012), p. 1. 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, p. 2.

In this case, the Claimant had an active FIP and FAP benefits on the date of JET non-compliance and is therefore subject to the FIP sanction as the Claimant was not deferred and good cause was not established. Accordingly, the Department acted in accordance with Department policy when it removed the Claimant from the FAP group based on the FIP non-compliance resulting in a reduction of FAP benefits. Accordingly, the Department's FAP determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department established it acted in accordance with Department policy when it terminated the Claimant's FIP benefits and reduced the FAP benefits effective December 1, 2012 based on non-compliance with work-related activities without good cause.

Accordingly, it is ORDERED:

1. The Department's FIP and FAP determination are AFFIRMED.
2. The 3-month FIP sanction is imposed for non-compliance without good cause in required work-related activities.

Colleen M. Mamelka

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

Date Signed: January 24, 2013

Date Mailed: January 24, 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.

[REDACTED]

[REDACTED]

[REDACTED]