

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2013-13898
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: January 24, 2013
Wayne County DHS (15)

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 24, 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 due to non-compliance without good cause with the Jobs, Education, and Training ("JET") program?

Whether the Department properly reduced the Claimant's food assistance ("FAP") benefits due to JET non-compliance?

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 recipient.
2. On November 13, 2013, the Department sent a Notice of Non-compliance to the Claimant instructing her to appear for triage on November 20, 2012. (Exhibit 2)
3. On November 20, 2012, the Claimant did not show up for triage and the Claimant's case was recommended for closure. (Exhibit 1, p. 1)

4. Prior to the period of alleged non-compliance (June 27th through August), the Claimant had applied for Child Development & Care (“CDC”) benefits.
5. On June 27th, the Claimant made an inquiry regarding CDC benefits.
6. On November 13, 2012, a Notice of Case Action was sent to the Claimant informing her that her FIP benefits would terminate effective December 1, 2012 ; the CDC benefits were denied; and the Food benefits (“FAP”) were reduced due to the non-compliance.
7. On November 26, 2012, the Department received the Claimant’s written request for hearing.
8. The Claimant’s FIP benefits terminated and FAP reduced effective December 1, 2012.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Reference Tables (“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, Rules 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 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.

As a preliminary matter, the Claimant requested a hearing regarding the November 13, 2012 Notice of Case Action. At issue are 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 child care may constitute good cause. BEM 233A, pp. 4.

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 applied for CDC benefits on or about June 17, 2012 to allow for JET participation. The Claimant’s father, who was reportedly previously approved as a provider, was caring for the child(ren). The Claimant testified credibly that she completed orientation and continued the JET requirements until mid-July. Conversely, case notes reflect an absence on July 19 then, subsequently provide that the Claimant did not participate from June 27th through August 30th which the Claimant adamantly denied. During this time, the Claimant repeatedly inquired regarding the status of CDC benefits, noting that her father would not continue to provide services without payment. Additionally, during this time, the Claimant case was switched between 4 workers which could have possibly contributed to the failure to timely process the CDC request. Policy provides that a lack of child care may constitute good cause for JET non-participation. Here, the Claimant applied for CDC benefits prior to being found non-compliant to facilitate JET participation. No action was taken effectively resulting in the Claimant having no child care.

In light of the foregoing, it is found that the Claimant established good cause for JET non-compliance after she was unable to secure CDC benefits to allow for her children to be cared for so she could comply with JET requirements. Accordingly, the Department’s determination is REVERSED.

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 established good cause for the JET non-compliance. As such, the Claimant is not subject to the FIP sanction thus should not be removed from the FAP group. Accordingly, the Department’s reduction in FAP benefits is not upheld.

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’s actions are not upheld.

THE DEPARTMENT SHALL INITIATE WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER, THE FOLLOWING:

1. The Department’s FIP determination is REVERSED.
2. The 6-month FIP sanction is not imposed.
3. The Department shall initiate reinstatement of the Claimant’s FIP benefits effective December 1, 2012 in accordance with department policy.
4. The Department’s reduction in FAP benefits is not upheld.
5. The Department shall add the Claimant back to the FAP group effective December 1, 2012 in accordance with department policy.

6. The Department shall supplement for lost FIP and FAP benefits effective December 1, 2012, that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

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

Date Signed: January 30, 2013

Date Mailed: January 30, 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.

2013-13898/CMM

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

CMM/tm

cc:

