

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2013-21213
Issue No.: 1013
Case No.: [REDACTED]
Hearing Date: February 14, 2013
Wayne County DHS (17)

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, February 14, 2013. The Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED]. [REDACTED] of the Department, translated the Claimant's testimony.

ISSUE

Whether the Department properly terminated the Claimant's cash assistance case effective January 1, 2013 due to non-compliance with the Work First/Jobs, Education, and Training ("WF/JET") program?

Whether the Department properly reduced the Claimant's food assistance ("FAP") benefits based on the WF/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 an ongoing FIP and FAP recipient.
2. The Claimant's spouse was previously medically deferred from the WF/JET program.
3. On October 12, 2012, the Medical Review Team ("MRT") found the Claimant's spouse medically capable of performing work-related activities. (Exhibit 1).

4. On November 1, 2012, the Department sent a Work Participation Program Appointment Notice instructing the Claimant's spouse to attend the WF/JET program on November 13, 2012. (Exhibit 2)
5. The Claimant's spouse attended the scheduled appointment and provided a Medical Needs form. (Claimant Exhibit A).
6. The Claimant's spouse was instructed to provide the Medical Needs Form, along with any additional medical records, to the case worker.
7. On November 26, 2012, the Department sent a Notice of Case Action to the Claimant informing the Claimant that FIP benefits would terminate and FAP benefits would reduce effective January 1, 2013 based on the failure to participate with the WF/JET program without good cause. (Exhibit 3)
8. The 3-month JET non-participation sanction was also imposed. (Exhibit 3)
9. On January 9, 2013, the Department received the Claimant's written request for hearing.

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 requested a hearing regarding the termination of FIP benefits and the reduction of FAP benefits. Each program will be separately addressed.

FIP closure

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.

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; BEM 230A (November 2012), p. 12. Recipients determined as work ready with limitations are required to participate in the work participation program as defined by MRT. BEM 230A, p. 12. When a client determined by MRT to be work ready with limitations becomes noncompliant with the work participation program or his/her FSSP assigned activities, BEM 233A is followed. BEM 230A, p. 14.

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. The first occurrence of non-compliance results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 6.

In this case, the Claimant's spouse, who was previously medically deferred from WF/JET participation, was found by the MRT to be capable of work-related activities with some limitations. The Department sent a WF/JET appointment notice instructing the Claimant's spouse to attend the WF/JET program on November 13, 2012. Although the Claimant's spouse attended the program as required, the Department's notes reflect that the spouse was a no call, no show for the appointment. Despite the spouse's attendance, the Department found the spouse non-participatory and pended the FIP benefits for closure effective January 1, 2013. The Department also imposed a 3-month JET sanction for non-compliance. Pursuant to BEM 233A, the Department was required to schedule a triage to discuss good cause for the alleged non-compliance. This was not done. In light of the foregoing, the Department failed to establish it acted in accordance with department policy when it terminated the Claimant's FIP benefits. Accordingly, the Department's actions are not upheld.

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 Department terminated FIP benefits based on a reported failure to participate with the WF/JET program without good cause. As discussed above, the Department failed to establish it acted in accordance with policy when it terminated FIP benefits. As such, the removal of the spouse from the FAP group which resulted in the reduction of 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 failed to establish it acted in accordance with department policy when it terminated the Claimant's FIP benefits; imposed the 3-month JET sanction for non-participation; and reduced the Claimant's FAP benefits effective January 1, 2013.

Accordingly, it is ORDERED:

1. The Department's FIP and FAP determinations are REVERSED.
2. The Department shall re-instate the Claimant's FIP and FAP benefits effective January 1, 2013 in accordance with department policy.
3. The Department shall initiate supplementation of FIP and FAP benefits that the Claimant was entitled to receive, effective January 1, 2013, if otherwise eligible and qualified.

Colleen M. Mamelka

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

Date Signed: February 21, 2013

Date Mailed: February 22, 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

CMM/tm

cc:

