

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

IN THE MATTER OF:



Reg. No.: 2013-2211
Issue No.: 1022
Case No.:
Hearing Date: December 5, 2012
County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 held on December 5, 2012, from Detroit, Michigan. Participants on behalf of Claimant included . Participants on behalf of the Department of Human Services (Department) included .

ISSUE

Did the Department properly delay an increase in Claimant's Family Independence Program (FIP) benefits until August, 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. Claimant was an ineligible grantee on a FIP case.
2. On May 18, 2012, Claimant applied for FIP for herself as a member add to the current FIP case.
3. Claimant was a mandatory Jobs, Education and Training (JET) participant.
4. Claimant was sent to JET on June 4, 2012, and met all other eligibility requirements.
5. Claimant attended JET on June 4, but was unable to complete orientation due to school commitments.

6. Claimant contacted her caseworker on June 4, and was told she would have her JET case rescheduled.
7. Claimant was submitted to triage for not completing her orientation and had a triage on July 18, 2012.
8. Good cause was found at the triage for Claimant failing to complete orientation.
9. On June 22, 2012, in response to her request for rescheduling, Claimant was sent a JET appointment notice scheduling a new orientation on July 2, 2012.
10. Claimant attended that orientation and completed all further JET requirements.
11. Claimant's FIP member add was opened as of August 1, 2012.
12. On September 24, 2012, Claimant requested a hearing, arguing that she should have received increased FIP benefits for the months of June and July, 2012.

CONCLUSIONS OF LAW

Department 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.

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

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human

Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

For member adds only, with regard to the FIP program, member additions resulting in a grant increase will affect the month after the month the change occurred. BEM 515 (2011).

For initial applications only, assistance begins the first pay period after the group has met eligibility requirements and the application is 30 days old. BAM 115 (2012).

If a member add for FIP fails to attend JET, the noncompliance and triage policies, elaborated below, apply. BEM 233A (2012).

All FIP and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full time must be referred to the JET Program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. Clients who have not been granted a deferral must participate in employment and/or self-sufficiency-related activities to increase their employability and to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called “noncompliance.” BEM 233A defines noncompliance as failing or refusing to, without good cause:

“... Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider...” BEM 233A, p. 1.

However, non-participation can be overcome if the client has “good cause.” Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the non-participatory person. BEM 233A. A claim of good cause must be verified and documented.

The penalty for noncompliance is FIP closure. BEM 233A.

Furthermore, JET participants cannot be terminated from a JET program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with the Department or MWA. BEM

233A. If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

The Department argues that Claimant, though a member add to the existing FIP group, did not meet eligibility requirements until July and, therefore, per policy in BAM 115, could not be eligible for benefits until August.

The undersigned finds this argument to be contrary to policy.

The policy in BAM 115 relied upon by the Department specifically says:

“If the application becomes 30 days old and the group has not met eligibility requirements, begin assistance for the first pay period when it does.”

Claimant was re-referred to JET in July; therefore, the Department argued that Claimant did not meet eligibility requirements until July and, therefore, the first pay period when the group met all requirements was August.

The Administrative Law Judge disagrees with this interpretation for several reasons.

First, the policy in question is under the specific subheading “initial benefits,” and does not refer to a member add; the Department erred when relying on this policy for a member add.

Second, the policy specifically references an “application” becoming 30 days old; this was not an application for benefits (characterized typically by a DHS-1171), but rather, a request from an ineligible grantee to be added to the case. Therefore, this policy should not apply.

Third, the policy in question specifically directs the worker to refer to BEM 515 for member add cases. BEM 515 specifically says that “member additions resulting in a grant increase will affect the month after the month the change occurred.” This policy does not allow for a delay in a benefit increase for the circumstances where a claimant fails to attend JET.

The reason for this is simple: BEM 233A has its own policy for what happens when a member add, referred to JET, fails to attend. According to that policy, should a member add, properly referred to JET, fail to attend orientation, the entire group is referred to triage, where, if no good cause is found, the entire FIP case (which includes members not referred to JET), face sanction and case closure.

Thus, if a member add fails to attend JET, the proper procedure is not to delay eligibility until they do attend, but rather to schedule a triage, make a good cause determination, and, if no good cause is found, sanction and close the case for the appropriate penalty period.

The Department did, indeed, schedule a triage and even found that Claimant had good cause for not attending JET; however, the Department also delayed eligibility as if this particular case were a new application and not a member add. The undersigned finds this particular course of action confusing, as, if Claimant had good cause for failing to attend JET, no penalty, including a benefit delay or denial, should have been imposed. By delaying Claimant's benefits until August, Claimant was denied two months of benefits that she would have been ordinarily entitled to, almost as much as if she had been noncompliant in the first place.

However, by finding good cause, the Department admitted that Claimant could not have attended JET in the month of June through no fault of her own. The undersigned fails to understand how the Department could admit that Claimant could not have attended JET in June, yet still hold that Claimant was at fault for her delay in eligibility until August.

Claimant's benefits were delayed. If the benefits were delayed, either Claimant was at fault for delaying the benefits, or the Department was in error in delaying the benefits. If Claimant was not at fault for failing to attend JET, and the benefits were delayed for failing to attend JET, Claimant could not be at fault for delaying the benefits. Thus, the Department must have been in error for delaying the benefits.

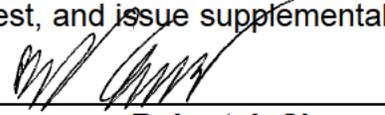
DECISION AND ORDER

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 when . did not act properly when delaying Claimant's FIP benefit increase until August, 2012.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated 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. Process the May 18, 2012, FIP group member add request, and issue supplemental FIP benefits for the month of June and July, 2012.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 10, 2013

Date Mailed: January 10, 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

RJC/pf

cc:

