

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

IN THE MATTER OF:



Reg. No. 2013-23311
Issue No. 1038; 3029
Case No. [REDACTED]
Hearing Date: February 20, 2013
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 February 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department properly closed Claimant's case for benefits under the Family Independence Program (FIP) and decreased 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, and was required to participate in employment-related activities.
2. On October 25, 2012, the Department sent Claimant a Notice of Noncompliance informing Claimant of a failure to participate in employment-related activities and setting a triage date of November 2, 2012.
3. On October 25, 2012, the Department sent Claimant a Notice of Case Action closing Claimant's FIP, effective December 1, 2012, due to failure to participate in employment-related activities without good cause.

4. Claimant participated in work-related activities.
5. On January 7, 2013, Claimant filed a hearing request 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 1999 AC, Rule 400.3101 through Rule 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 1999 AC, Rule 400.3001 through Rule 400.3015.

In order to increase their employability and obtain employment, work eligible individuals (WEI) seeking FIP are required to participate in the JET Program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A; BEM 233A. Failing or refusing to attend or participate in a JET program or other employment service provider without good cause constitutes a noncompliance with employment or self-sufficient related activities. BEM 233A. Good cause is a valid reason for noncompliance which is beyond the control of the noncompliant person. BEM 233A. JET participants will not be terminated from a JET program without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. Good cause must be based on the best information available at the triage and must be considered even if the client does not attend the triage. BEM 233A.

In processing a FIP closure, the Department is required to send the client a Notice of Noncompliance (DHS-2444) which must include the date(s) of the noncompliance, the reason the client was determined to be noncompliant, and the penalty duration. BEM 233A.

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In the present case the October 25, 2012 Notice of Noncompliance set a triage date of November 2, 2012. A Notice of Case Action closing Claimant's FIP case and decreasing Claimant's FAP benefits due to non-participation in work-related activities was also issued on October 25, 2012 (prior to the triage date.)

Going beyond the obvious due process issue of issuing a negative action prior to the triage date, I will address the issue of whether Claimant participated in job activities.

The Department and Claimant testified that a phone triage was held and the Hearing Summary and Update/View Case Notes (Exhibit 5) indicate that Claimant was given a deadline of November 21, 2012 to update job search logs. Claimant updated the job search logs by November 21, 2012, but the logs were found deficient by the Department.

At the hearing, the Department presented a form entitled "Outside Job Search Contact Log." ("log") (Exhibit 3) The Department witnesses testified that they did not find that the log was sufficiently updated by Claimant to reflect a proper job search. However, Claimant testified credibly that she updated the log to the best of her ability. It is noted that the log form states at the bottom, "By signing above, I attest that the information I provided is true to the best of my knowledge."

Claimant detailed, for instance, that although she placed "Kelly Services" on the log and gave its address, she corrected the log to reflect the change when she learned that the name of the temporary service that she attended was not Kelly Services. Exhibit 4 shows that Kelly Services is no longer at the building Claimant attended. However, two new temporary services are in the building, so it is logical to conclude that Claimant made an "honest mistake," as she indicated at the hearing, thinking that the temporary services were called Kelly Services.

Based on the above discussion, I find that Claimant provided job search information to the best of her knowledge and therefore participated in employment-related activities.

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.

DECISION AND ORDER

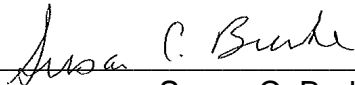
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department
 did act properly. did not act properly.

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Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record.

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

1. Remove the sanction from Claimant's case.
2. Initiate reinstatement of Claimant's FIP case and restoration of Claimant's FAP benefits, effective December 1, 2012, if Claimant is otherwise eligible for FIP and FAP.
3. Issue FIP and FAP supplements, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 26, 2013

Date Mailed: February 26, 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 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:

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- 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

SCB/tm

cc:

