

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

IN THE MATTER OF:



Reg. No. 2013-3186
Issue No. 1038; 3029
Case No. [REDACTED]
Hearing Date: March 27, 2013
County: Wayne (19)

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 March 27, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], PATH Worker [REDACTED], and Triage Coordinator [REDACTED].

ISSUE

Whether the Department properly closed Claimant's case for benefits under the Family Independence Program (FIP) based on Claimant's failure to participate in employment-related activities.

Whether the Department properly reduced 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 benefits and was required to participate in employment-related activities. Claimant was also a recipient of FAP benefits.

2. In May of 2012, Claimant submitted to the Department a change of address form at the Department office, where she was given her Department worker's phone number extension. Claimant also attempted to call her Department worker and inform him of a change of address.
3. On June 20, 2012, the Department sent Claimant a Notice of Noncompliance at her previous address, informing Claimant of a failure to participate in employment-related activities .
4. Claimant did not receive the Notice of Noncompliance.
5. The Department did not present at the hearing an appointment notice to attend an employment-related activity.
6. The Department held the triage and found that Claimant had failed to comply with employment-related activities without good cause.
7. On July 17, 2012, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, and reducing Claimant's FAP benefits, effective August 1, 2012 based on a failure to participate in employment-related activities without good cause.
8. On September 21, 2012, Claimant requested a hearing 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.

As a condition of eligibility for FIP and FAP, clients may be required to participate in employment-related activities. BEM 233A If clients do not participate in employment-related activities without good cause, a sanction may be imposed on their cases. BEM 233A

In the present case, the Department alleged that it issued to Claimant a notice to attend a JET or PATH appointment, and that Claimant did not attend the appointment, thereby failing to participate in work-related activities. However, the Department did not present the alleged notice of appointment for examination at the hearing, and Claimant stated that she did not receive such a notice.

In addition, Claimant testified credibly that in May of 2012, she submitted to the Department a change of address form at the Department office, where she was given her Department worker's phone number extension. Claimant also attempted to call her Department worker and inform him of a change of address. The Department worker at the hearing could not recall if he did or did not receive such a call from Claimant. On June 20, 2012, the Department issued a Notice of Noncompliance, mailing it to Claimant's old address. Claimant stated that she did not receive the Notice of Noncompliance.

First, I am not satisfied that the Department proved that Claimant did not participate in work-related activities, as the alleged activity in question, an appointment with JET or PATH, was not verified at the hearing. That is, the Department did not present as part of its exhibits, a notice of the appointment with JET or PATH.

Second, I am not satisfied that the Department followed its policy delineated in BEM 233A, that is, giving Claimant proper notice of the triage, as the Notice of Noncompliance shows an address that was not Claimant's address at the time the Notice of Noncompliance was issued.

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.

properly reduced Claimant's FAP benefits improperly reduced Claimant's FAP benefits.

properly closed Claimant's CDC case improperly closed Claimant's CDC case.

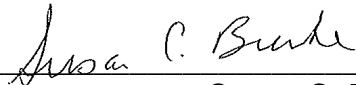
DECISION AND ORDER

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.

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 FIP and FAP cases.
2. Initiate reinstatement and restoration of Claimant's FIP and FAP benefits, effective August 1, 2012, if Claimant is otherwise eligible for the programs.
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: March 27, 2013

Date Mailed: March 28, 2003

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.

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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

SCB/tm

cc:

