

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201313062
Issue No.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: February 28, 2013
County: Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Thursday February 28, 2013. The Claimant appeared and testified. Participating on behalf of Department of Human Services (Department) was [REDACTED] (FIS).

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits based on the failure to comply with the Jobs, Education, and Training ("JET") program?

Whether the Department properly reduced the Claimant's food assistance benefits ("FAP") based on the 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 and a mandatory WF/JET participant.
2. On May 14, 2012, the Department sent a Work Participation Program Appointment Notice instructing the Claimant to report to the JET program on May 29, 2012. (Exhibit 1)

3. The Claimant attended the JET appointment and notified her case worker that she could participate fully until her disabled child was out of school for the summer because she did not have adequate child care.
4. The Department was notified that the Claimant was placed in a triage status on July 23, 2012 for not participating in the JET program based on caseworker notes.
5. On August 23, 2012, a Notice of Case Action was mailed to the Claimant informing her that her FIP benefits would close and FAP benefits would be reduced effective October 1, 2012 based on the Claimant's failure to participate in the JET program. (Exhibit 2)
6. On August 31, 2012 a triage was held between the Claimant and the Department. The JET program caseworker did not participate.
7. Claimant provided the Department with medical documentation at triage regarding her daughter's disability and asserted the need for child care to continue participating in the JET program during the summer months.
8. On August 31, 2012 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 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 Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A. All Work Eligible Individuals ("WEI"), and non-WEIs, are required to work or engage in employment

and/or self-sufficiency-related activities. BEM 233A. Failure to participate in employment or self-sufficiency-related activities without good cause is penalized. BEM 233A. Penalties include a delay in eligibility at application, ineligibility, or case closure for a minimum of 3 months for the first episode of non-compliance, 6 months for the second occurrence, and a lifetime closure for the third episode of non-compliance. BEM 233A. Good cause is a valid reason for non-compliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. BEM 233A.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A. Good cause is based on the best information available during the triage *and* prior to the negative action date. 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 or the date the client was considered to be non-compliant; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A. If good cause is established within the negative action period, benefits are reinstated and the client is sent back to the work participation program. BEM 233A. The Department is responsible and must assist clients who present with child care or transportation barriers before requiring work participation program attendance. BEM 229.

In this case, the Department determined that the Claimant failed to participate in the JET program without good cause based solely on the comments contained in the JET case notes. A good cause determination was not made by the Department based on the information provided by the Claimant at triage. Claimant testified credibly that she notified both the JET worker and the Department about her daughter's disability and the need for child care to fully participate in the program during the summer months. The JET case notes do not reflect this information. Conflicting evidence was presented regarding the Claimant's contact with the JET worker and the comments contained in the case notes. The Claimant's JET worker did not participate in the hearing.

The Claimant was not provided with a Child Development & Care (CDC) application or given reasonable accommodations, under the circumstances, to resolve the barrier to her continued participation in the JET program during the summer months when her disabled child was out of school. In light of the foregoing, the Claimant established good cause for failing to continue participating in the JET program. It is found that the Department failed to establish it acted in accordance with policy when it terminated the Claimant's FIP benefits and reduced the FAP benefits.

Accordingly, the Department's determination is **REVERSED**.

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 it terminated the Claimant's FIP benefits and reduced the FAP benefits effective October 1, 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. The three-month FIP sanction for JET non-compliance is not imposed.
2. The Department shall reinstate the Claimant's FIP benefits from the proposed date of closure and supplement for lost FIP benefits (if any) that the Claimant was otherwise eligible and qualified to receive in accordance with Department policy.
3. The Department shall reinstate the Claimant as a FAP group member from the proposed FAP reduction date and supplement for lost FAP benefits (if any) that the Claimant was otherwise eligible and qualified to receive in accordance with Department policy.
4. The Department shall send the Claimant back to the work participation program in accordance with Department policy.

/s/ _____
Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/4/2013

Date Mailed: 3/4/2013

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

MH/hw

cc:

