

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

IN THE MATTER OF:



Reg. No.: 201322844
Issue No.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: February 6, 2013
County DHS: Midland

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 February 6, 2013. Claimant appeared and testified. PATH Worker, [REDACTED], represented the Department of Human Services (Department).

ISSUE

Did the Department properly sanction Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) cases for failure to participate in employment and/or self-sufficiency 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 Family Independence Program (FIP) benefits. It was mandatory for Claimant's benefit group to participant in the Michigan Works Agency/Jobs Education and Training Program (JET).
2. The Claimant is, at the time of hearing, six months pregnant and not eligible for a deferral from the JET program until she is seven months pregnant.
3. The Claimant had been working at Target part-time, which was insufficient to fulfill her required hours for JET. She completed no other JET activities.

4. On December 14, 2012, Claimant was sent a Notice of Non-Compliance (DHS-2444) which scheduled a meeting for December 26, 2012.
5. On December 26, 2012, Claimant did did not attend the scheduled meeting. The Department determined there was no good cause for Claimant's failure to participate in employment and/or self-sufficiency related activities.
6. On December 14, 2012 Claimant was sent Notice of Case Action (DHS-1605) stating that the Family Independence Program (FIP) Food Assistance Program (FAP) case(s) would be sanctioned.
7. On January 10, 2013, Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

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 1997 AACRS R 400.3101-3131. 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 1997 AACRS R 400.3001-3015.

Claimant asserts (s)he met the participation requirements.

Claimant does not dispute failure to meet JET participation requirements but asserts good cause based on her [REDACTED]. Indeed, the evidence does indicate that the Claimant was seen at the [REDACTED] on [REDACTED], and [REDACTED]. Department testimony at the hearing indicates that she was excused for these hours, but was still not participating as required. The Claimant had no documentation of good cause at the triage and was not offered a DHS-54 Medical needs form to establish such. It is not contested at the hearing that the Claimant lost her job because she needed to eat at her employment station and her employer would not permit this. The Claimant's witness testified that the Claimant could not ride around in the car without vomiting violently and could therefore not job search. During the triage, the Claimant provided documentation of three [REDACTED]. There is no actual date or dates of non-compliance on the DHS-2444 Notice of Non-compliance. Departmental policy at Bridges Eligibility Manual (BEM) 233A (2012), pp. 8, 9 requires that the date or dates of non-compliance and the reason why the Claimant was

determined to be non-compliant be listed on the DHS-2444, Notice of Non-compliance. The date of December 12, 2012, is the date that the department decided the Claimant was in non-compliance per the case notes in evidence. Therefore, the Claimant provided documentation for the dates she suspected she may have been in non-compliance and stated that she could not do the job search without becoming violently ill.

The DHS-2444 Notice of Non-compliance does not contain the information the departmental policy requires. It leaves the Claimant guessing as to what date/dates she is in non-compliance. The case notes in evidence indicate that her worker discussed her non-compliance and possible triage with the claimant on December 6, 2012, at a re-engagement meeting, but again references no specific dates. The Claimant attended triage and provided documentation of three [REDACTED] as well as her job loss due to not being able to drink and eat at her work station. Instead of determining good cause based on the documentation of the three [REDACTED], which would be permitted by departmental policy, no good cause is found. There is no explanation as to why no good cause was found after the Claimant provided the documentation of the [REDACTED], for which the Department determined she was excused. As the Claimant has no actual date of her non-compliance, the Claimant would not know what other dates of non-compliance she would need to establish good cause for.

Evidence presented at the hearing is insufficient to establish that the Department was acting in accordance with its policy when taking action to sanction the Claimant's FIP and FAP cases.

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 did not properly sanction Claimant's:

Family Independence Program (FIP) and Food Assistance Program (FAP) for failure to participate in employment and/or self-sufficiency related activities.


Accordingly, the Department's FIP and FAP 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. Initiate reinstating the Claimant's FIP and FAP cases back to January 1, 2013.
2. Initiate issuing the Claimant any supplemental benefits that she may thereafter be due.


Susanne E. Harris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 02/25/2013

Date Mailed: 02/26/2013

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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

201322844/SEH

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

SEH/kl

cc:

