

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

**IN THE MATTER OF:**



Reg. No.: 201332601  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: April 3, 2013  
County: Wayne County (#31)

**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 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Wednesday April 3, 2013. The Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) was [REDACTED] (Family Independence Specialist).

**ISSUE**

Whether the Department properly closed Claimant's cash assistance ("FIP") benefits for non-compliance with 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. The Claimant was an ongoing FIP recipient.
2. On December 18, 2012, the Department sent a Work Participation Program Appointment Notice instructing the Claimant to attend the Work First/Jobs, Education, and Training ("WF/JET") program on January 2, 2012. (Exhibit 6)
3. The Claimant did not participate with the JET program.
4. On January 11, 2013, the Department sent a Notice of Non-compliance instructing the Claimant that due to failure to participate in required

employment activity, a triage was scheduled for January 23, 2013 to discuss reasons for non-compliance. (Exhibit 5)

5. On the same date, a Notice of Case Action was mailed to the Claimant, informing her that her FIP benefits would close effective February 1, 2013 based on the Claimant's failure to participate in the JET program.
6. The triage was rescheduled to January 31, 2013, at the request of the Claimant. At triage, the Department made a no good cause determination based on Claimant's statement that she did not participate with Work First because she attended school full-time.
7. A three-month sanction for non-compliance with employment activity was also imposed.
8. On January 22, 2013, the Department received Claimant's written hearing request disputing the action.

### **CONCLUSIONS OF LAW**

The Department of Human Service (DHS) 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) is temporary cash assistance to support a family's movement to self sufficiency. It 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 Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A (January 2013), p. 1. All Work Eligible Individuals ("WEI"), and non-WEIs, are required to work or engage in employment and/or self-sufficiency-related activities. BEM 233A, p. 2. Failure to participate in employment or self-sufficiency-related activities without good cause is penalized. 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, p. 6. 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, p. 3.

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 can either attend the triage or participate in a conference call if physical attendance is not possible. 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. Child care and transportation barriers are common and also constitute good cause for JET noncompliance. BEM 229 (January 2013), p. 1. The Department is responsible and must assist clients who present with child care or transportation barriers before requiring work participation program attendance. BEM 229, p. 2.

In this case, Claimant was a mandatory participant with the JET program. She testified that she did not participate with the JET program on a consistent basis because she was in school full-time and needed a babysitter. In addition, she was deferred from the program for about a month, around November 2012, because her child had surgery. She submitted an application for Child Care (CDC) benefits in November 2012 but was denied by the worker. Claimant testified credibly that she notified the Department and the JET worker that she does not have child care or transportation to fully participate in the program. As of the date of hearing, the Claimant has not been approved for CDC benefits. Policy requires that the Department not refer a client to the Work Participation Program until it is certain that barriers to participation, such as lack of child care and/or transportation have been removed. The evidence on record does not indicate the Department made a reasonable attempt to resolve the Claimant's reported barriers to her continued participation with the JET program prior to closure. Therefore, the Department did not establish it acted in accordance with policy when it closed the Claimant's FIP case effective February 1, 2013.

Accordingly, the Department's action is not upheld.

### **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 not act in accordance with policy when it closed Claimant's FIP case effective February 1, 2013 for non-compliance with employment related activity.

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

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. 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.
2. The three-month FIP sanction for JET non-compliance is not imposed.
3. The Department shall refer the Claimant back to the work participation program after reported barriers are addressed and removed, in accordance with department policy.



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**MICHELLE HOWIE**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 4/10/2013

Date Mailed: 4/10/2013

**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:

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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

MH/hw

cc:

