

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-55154
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 1, 2010
DHS County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 held on December 1, 2010. Claimant appeared and testified. [REDACTED]

[REDACTED], appeared on behalf of the Department of Human Services (Department or DHS.)

ISSUE

Did the Department of Human Services ("Department" or "DHS") correctly impose a negative case action and three month sanction upon the claimant for noncompliance with work-related activities?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant is a Family Independence Program (FIP) recipient and a mandatory participant in work-related activities.
2. Claimant was assigned to perform community service work for sixteen hours per week.
3. On April 29, 2010, Claimant, who was approximately seven months pregnant, was struck intentionally with a car by a member of her household.
4. Claimant did not perform community service work on May 21, 2010.

5. On May 21, 2010, the Department issued a Notice of Noncompliance to Claimant, stating "Claimant refused or failed to participate as required in employment and/or self-sufficiency-related activities."
6. On June 3, 2010, a triage was conducted in which the Department found no good cause.
7. On July 16, 2010, the Department issued a Notice of Case Action that Claimant's Group would not receive benefits from August 1, 2010, through October 31, 2010.
8. On July 31, 2010, Client requested a hearing on this matter.

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, 8 USC 601, *et seq.* The Department administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Program Reference Manual.

The Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 230A, BEM 233A. All Work Eligible Individuals (WEIs) are required to participate in the development of a Family Self-Sufficiency Plan (FSSP) unless good cause exists. BEM 228. As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency-related activities. BEM 233A. The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program (JET) or other employment service provider. BEM 233A. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. BEM 233A. Failure to comply without good cause results in FIP closure. BEM 233A. The first and second occurrences of non-compliance result in a 3-month FIP closure. BEM 233A. The third occurrence results in a 12-month sanction.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. 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; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A. In addition, a triage must be held within the negative action

period. BEM 233A. A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A.

Good cause includes the following:

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to the following:

- Domestic violence.
- Health or safety risk.

BEM 233A.

Domestic violence means one or more threats or acts against any family member concerning any of the following:

- Physical injury.
- Sexual abuse.
- Sexual involvement of a dependent child.
- Mental/emotional abuse.
- Neglect or deprivation of medical care.

BEM 230A.

In the present case, Claimant credibly testified that she was subject to domestic violence and health and safety risk. The Department does not dispute that on [REDACTED], a member of Claimant's household intentionally hit Claimant with a car, that Claimant was approximately seven months pregnant at the time, and that Claimant temporarily moved to her parents' home. Claimant credibly testified that she moved back to her home after ascertaining that the assaultive member of her household was no longer there. These facts were obtained from Case Notes, Exhibit 2, Request for Hearing, Exhibit 4 and 4a, and from the testimony at hearing. The Case Notes indicate that Claimant was in a compliance mode prior to the assault. For example, a Case Note of [REDACTED], states, "[REDACTED] received all exceptional marks on her community service evaluation."

The date of noncompliance as listed in the Notice of Noncompliance (DHS-2444) is May 21, 2010. It is likely Claimant's situation as of May 21, 2010, was still subject to "an

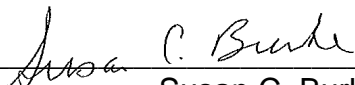
unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities,” (BEM 233A,) given that she was approximately seven months pregnant and had recently been subject to assault.

Based on the above discussion, I find that Claimant had good cause, i.e., a valid reason for noncompliance with employment and/or self-sufficiency-related activities. BEM 233A.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant was in compliance with the program during the period in question. At no point did Claimant fail to participate in employment and/or self-sufficiency-related activities without good cause.

Accordingly, the Department’s decision in the above-stated matter is, hereby, REVERSED. The Department is ORDERED to reinstate Claimant’s FIP benefits as of August 1, 2010, if Claimant meets all other eligibility factors. Furthermore, the Department is ORDERED to issue Claimant any benefits missed as a result of the negative action.



Susan C. Burke
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 6, 2010

Date Mailed: December 7, 2010

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

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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.

SCB/pf

cc:

