

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.: 2011-10973
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: January 20, 2011
DHS County: Macomb (50-20)

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 January 20, 2011. Claimant appeared and testified. [REDACTED], appeared on behalf of the Department of Human Services (Department or DHS). [REDACTED], also testified.

ISSUE

Is the Department correct in closing Claimant's Family Independence Program (FIP) case and decreasing Claimant's Food Assistance Program (FAP) benefits due to noncompliance with employment and/or 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 was an ongoing FIP and FAP recipient.
2. As a recipient of FIP, Claimant was required to participate in employment-related activities.
3. To fulfill this requirement, Claimant was assigned to the JET program.
4. Claimant attended the JET program as assigned.
5. On August 23, 2010, Claimant was late for a Direct Referral class.

6. On August 25, 2010, Claimant was late for a Direct Referral class.
7. On August 26, 2010, Claimant attended a make-up Direct Referral class.
8. On August 27, 2010, Claimant applied for two jobs, per her assignment from the Direct Referral class, but was late in arriving to her Direct Referral class.
9. On September 7, 2010, the Department sent Claimant a Notice of Noncompliance, indicating that Claimant refused or failed to participate by missing an appointment/meeting on August 23, 2010, and August 25, 2010, and not participating in required activity on August 27, 2010.
10. On September 15, 2010, Claimant attended the scheduled triage.
11. The Department put Claimant's FIP and FAP cases into negative action on September 15, 2010, closing Claimant's FIP case and decreasing Claimant's FAP benefits, effective October 1, 2010.
12. On September 24, 2010, Claimant requested a hearing contesting the negative action.

CONCLUSIONS OF LAW

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 (PRM).

FAP 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 CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in BAM, BEM and PRM.

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 JET Program 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 three-month FIP closure. BEM 233A. The third occurrence results in a twelve-month sanction. The goal of The FIP penalty policy is to bring the client into compliance. BEM 233A.

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 Noncompliance (DHS-2444) which must include the date(s) of the noncompliance; the reason the client was determined to be noncompliant; and the penalty duration. BEM 233A. In addition, a triage must be held within the negative action period.

In the present case, Claimant does not deny that she was late for a Direct Referral class on August 23, 2010, August 25, 2010 and August 27, 2010. The Case Notes (Exhibit 6) detail that Claimant arrived approximately forty minutes late on August 23, 2010, approximately twenty minutes late on August 25, 2010, and approximately thirty minutes late on August 27, 2010. Claimant says as to August 23, 2010, and August 25, 2010, she was late due to a period of adjustment, as the Direct Referral class was for the first time that week scheduled for the afternoon, which conflicted with her seeing to her fourteen-year-old son's activities. Claimant did attend a make-up class on August 26, 2010, per the case notes. Claimant says as to August 27, 2010, she was late due to attempting to complete the assignment by Direct Referral of August 26, 2010, in applying to two potential work sites. Claimant details that she did fill out an application at both job sites, but ran into time issues due to making arrangements with the personnel point person and getting a tour of one of the sites. In addition, Claimant attempted phoning the Michigan Works worker to advise her of the problems she was having at one of the job sites that day.

In this case, this Administrative Law Judge cannot find that Claimant was in noncompliance with employment-related activities. Although Claimant concedes she was late for the class on three occasions, she was attending to her son's well-being while she was adjusting to the new schedule and she did attend a make-up session on August 26, 2010, during which she received a job search assignment. Claimant credibly testified that on August 27, 2010, she diligently attempted to complete the job search assignment, and when she was running into time constraints due to connecting with the job site personnel, she attempted to contact the Michigan Works worker by phone. Based on the above discussion, I find that Claimant had good cause, that is, a

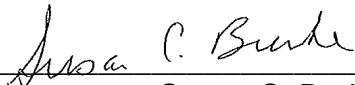
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valid reason for noncompliance with employment and/or self-sufficiency-related activities. BEM 233A.

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 and FAP benefits as of October 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 Maura Corrigan, Director
Department of Human Services

Date Signed: January 26, 2011

Date Mailed: January 27, 2011

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.

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