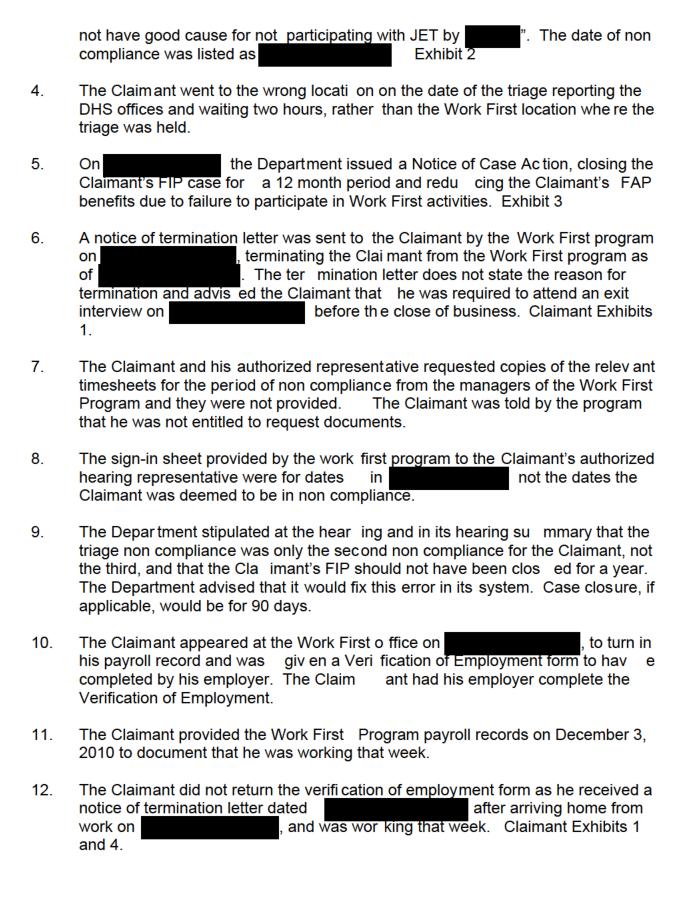
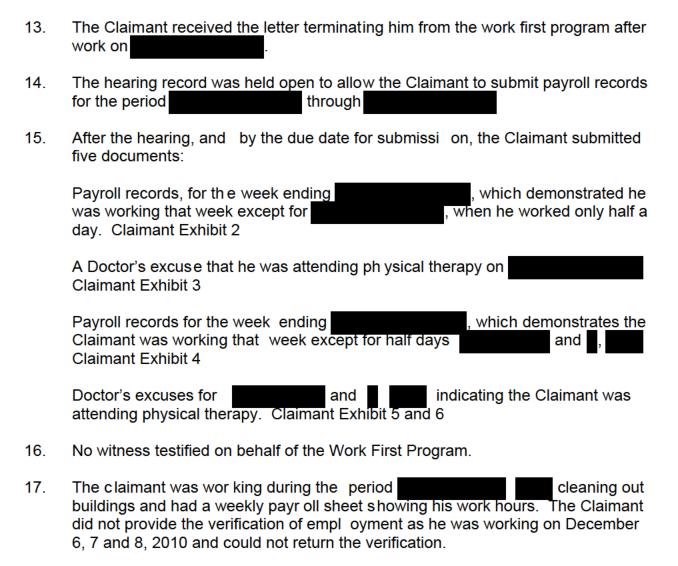
STATE OF MICHIGAN

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

IN THE MATTER OF:			
		Reg. No.: Issue No.: Case No.: Hearing Date:	2011-21265 1038, 3029 Oakland County DHS (04)
ADMINISTRATIVE LAW JUDGE:			
HEARING DECISION			
This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the c laimant's request for a hearing. After due notice, a telephone hearing was held on appeared as the Claimant's Authorized Representative. The claimant appeared and testified. The claimant appeared and testified. Case Manager appeared and testified on behalf of the Department.			
ISSUE			
Did the Department of Human Services (D HS) correctly impose a negative case action and twelve month sanction closing the Claimant's FIP case and reducing the Claimant's FAP benefits for noncompliance with work-related activities?			
FINDINGS OF FACT			
The Administrative Law Judge, based upon t he competent, material, and substantial evidence on the whole record, finds as material fact:			
1.	The Department issued a Notice of Non Coscheduling a triage on where to attend the triage. Exhibit 1. The caseworker by telephone where the triage was a second of the coscheduling a triage of the coscheduling at triage.	h ich listed the da e Claimant was a	
2.	The Claimant received the Notice of Non Compliance.		
3.	A triage was held on The Good Cause Determination which was		had no good c ause. art: " art did





18. The Claimant requested a hearing on his FIP benefits for 12 months as incorrect and the reduction in his FAP benefits due to non compliance with work related activities. The Claimant also protested that he did not even know what the non-compliance was.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconc iliation Act of 1996, Public Law 104-193, 8 USC 601, et seq. The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, et seq., and MAC R400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Elig ibility Manual (B EM) and the Bridges Reference Manual (BRM).

All Fam ily Independence Program (FIP) and Refugee Assist ance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full time must be referred to the Jobs, Education and Training (JET) Program or other employ ment service provider, unless deferred or engaged in activities that meet participation requirement s. These clients must participate in em ployment and/or self-sufficiency-related activities to increase their employability and to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in as signed employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called "noncompliance". BEM 2 33A defines noncompliance as failing or refusing to, without good cause:

...Appear and participate with t he Jobs, Education and Training (JET) Program or other employment service provider..." BEM 233A p. 1.

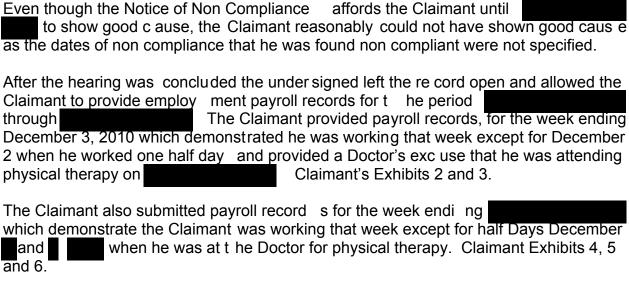
However, a failure to participate can be ov ercome if the client has good c ause. Good cause is a valid reason for failing to parti cipate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the claimant. BEM 233A. The penalty for noncompliance is FIP closure. However, for the first occurrence of noncompliance on the FIP case, the client can be excused. BEM 233A.

Furthermore, JET participants cannot be terminated from a JET program without first scheduling a "triage" meeting with the client to jointly discuss noncompliance and good cause. If a client calls to reschedule, a phone triage should be attempted to be held immediately, if at all possible. If it is not possible, the triage should be rescheduled as quickly as possible, within the negative action period. At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. BEM 233A.

If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to JET, if app licable, a fter resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

Before the Administrative Law Judge c an review a proper good cause determination, there must first be a determination of w hether the claimant was ac tually n on-participatory with the hour requirements for the JET program.

Based on the record presented, the Claimant was found in non compliance at the triage based upon the Good Cause Dete rmination issued "not par ticipating with JET by December 9, 2010. Just as the Good Cause Determination lacks specificity, the original Notice of Non Compliance di d not state the reason and dates of non com pliance with specificity. To add to the confusion, the Claimant was advised by the Work First Program on that the was terminated as of



Based on these documents submitted after the hearing when the dates in question were known, the Claimant did demonstrate good c ause for his periods of non attendance, as he was working and required medical attention documented by Doctor's notes.

A review of the record indicates that the Work First program did not provide adeq uate notice to the Claimant regarding the dates of non attendance supporting the non compliance, and therefore the Claimant could not reasonably be expected to demonstrate good cause. This decision was also influenced by the fact that the Claimant did present a verification of employment which he did not provide to the Work First program as he was terminated, and no due date appeared on the verification as to when it was to be returned.

In Determining whether good cause has been demonstrated for non compliance with a JET requirement the standard to be applied is provided in BEM 233A page 3:

Good cause is a v alid reason for noncomplianc e with employment and/ or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A clai m of good cause must be verified and documented for member adds and recipients.

After a careful examination of the doc umentary evidence provided by the Department, the Claimant and the testimony of the witne sses the Administrative Law Judge has determined that the Department has erred and has not met it s burden of proof sufficient to support its closure of the Claimant's FIP case and FAP benefit reduction. The Notic e of Non Compliance did not advise the Claimant of the dates of non compliance and the Good Cause Determination was also unclear. Once he was aware of the information and dates of non compliance, the Claimant provided good cause reasons for his non attendance periods due to work and medical records which substantiated good cause and thus he is deemed to have demonstrated good cause.

A different result would thwa rt the goal of the Work Firs t program which is to help individuals find jobs. Job search becomes meaningless if a participant is working. BEM 233A. The Department's finding of no good cause and the imposition of a twelve month sanction closing the Claimant 's FIP Cash Assistanc e case and reducing his FAP benefits is in error and must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, finds that the Depar tment's finding of no good cause and the imposition of a twelve month closure of the Claimant' FIP case and reduction of the Claimant's FAP benefits are error and are REVERSED.

Accordingly, it is ORDERED:

- 1. The Department shall reopen the Claimant's FIP case re troactive to the date of closure, and shall supplement the Claimant for any FIP benefits he was otherwise entitled to receive.
- 2. The Department shall delete the 12 month sanction and finding of no good cause with regard to the Claimant's non comp liance with W ork First and remove any relevant disqualification from the Claimant's Work First history resulting from the triage held on
- 3. The Department shall reassign the Claimant to the Work First program.
- 4. To the extent the reduction in FAP benefits was due to the sanction imposed upon the Claimant for non compliance with work related activities and resulted the Claimant's removal from his FAP group, the Department shall supplement the Claimant's FAP benefits retroactive to the date the decrease in FAP benefits, due to the Claimant's removal was effective. The Department may consider the income earned by the Claimant during supplement.

Administrative Law Judge For Maura Corrigan, Director Department of Human Services

Date Signed: 04/25/11

Date Mailed: 04/27/11

NOTICE: Administrative Hearings may or der 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 Hear ings will not orde rarehearing 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 ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

LMF/dj

