

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

IN THE MATTER OF:



Reg. No.: 201130170
Issue No.: 1038; 3029; 1005; 3008
Case No.:
Load No.:
Hearing Date: May 16, 2011
DHS County:

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 May 16, 2011. Claimant appeared and testified. [REDACTED], FIS Worker, appeared on behalf of the Department of Human Services (Department or DHS).

ISSUE

Was the Department correct in closing Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) cases due to noncompliance with employment and/or work-related activities?

Was the Department correct in closing Claimant's FIP and FAP cases due to failure to cooperate with the Department?

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 Jobs, Education and Training (JET) program.
4. Claimant attended the JET program as assigned.
5. On April 6, 2011, the Department issued a Notice of Noncompliance to [REDACTED], a member of Claimant's group, stating that Mr. Martin did not participate in required activity on December 12, 2010.
6. At the hearing, the Department testified that it was unknown why [REDACTED] was alleged to have not participated in required activity on December 12, 2010. No documentation submitted by the Department supports the alleged noncompliance date of December 12, 2010.
7. The Department did not proffer into evidence a Verification Checklist or other documentation showing a request from the Department regarding required information from Claimant.
8. Claimant's FIP and FAP cases were closed on May 1, 2011 due to failure to participate with employment services and due to failure to verify necessary information..
9. Claimant requested a hearing protesting the closure.

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.

The Food Assistance Program (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 administers the FAP program pursuant to MCL 400.10, *et seq.* and MAC R 400.3001-3015. Departmental policies are found in BAM, BEM and PRM, which includes the Reference Tables (RFT.).

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. (Emphasis added.) BEM 233A. In addition, a triage must be held within the negative action period. BEM 233A.

Clients must cooperate with the local DHS office in obtaining verification for determining initial and ongoing eligibility. BAM 105, 130. The questionable information might be from the client or a third party. *Id.* The Department can use documents, collateral contacts or home calls to verify information. *Id.* The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide the information should be extended at least once. BAM 130. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130.

In the present case, the Department issued a Notice of Noncompliance stating that a member of Claimant's group, [REDACTED], failed to participate in required activity on December 12, 2010. However, the Department testified at the hearing that it was unknown why [REDACTED] was alleged to have not participated in required activity on December 12, 2010. No documentation submitted by the Department supports the alleged noncompliance date of December 12, 2010.

Without proof of noncompliance as alleged by the Department in its Notice of Noncompliance, I cannot find that a member of Claimant's group was noncompliant. In addition, the Department did not proffer into evidence a Verification Checklist or other documentation showing a request from the Department regarding required information from Claimant. Without such proof that Claimant was required to verify information, I cannot find that she failed to cooperate with the Department by not verifying information.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant or a member of Claimant's group did not fail to participate in employment and/or self-sufficiency-related activities without good cause. In addition, the Administrative Law Judge finds that Claimant did not fail to cooperate with the Department. Accordingly, it is ORDERED that the Department's decision to close Claimant's FIP and FAP cases are REVERSED. The Department is ORDERED to reinstate Claimant's FIP and FAP cases effective May 1, 2011, if Claimant is otherwise eligible. Furthermore, the Department is ORDERED to issue Claimant any benefits missed as a result of the negative action in the form of a supplement.

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

Date Signed: [Insert.]

Date Mailed: [Insert.]

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.

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/ hw

cc: [Redacted]
Wayne County DHS (49)/ 1843

[Redacted]
Administrative Hearings