

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-30998
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: May 25, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Susan 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 25, 2011. Claimant appeared and testified. [REDACTED], JET Coordinator, [REDACTED], FIS Case Manager, and [REDACTED], CDF 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) case 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 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 missed appointments to attend JET on [REDACTED] and [REDACTED] due to her health issues and her son's health issues.

5. The Department alleged that it issued a Notice of Noncompliance to Claimant, but no such Notice was proffered into evidence.
6. Claimant did not receive a Notice of Noncompliance.
7. Pursuant to the alleged Notice of Noncompliance, a Triage was held on [REDACTED], and no good cause was found.
8. The Department closed Claimant's FIP case, effective [REDACTED] due to noncompliance with employment-related activities.
9. Claimant requested a hearing, protesting 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.

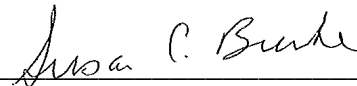
The Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 230A; BEM 233A. All Work Eligible Individuals (WEIs) are required to participate in the development of a Family Self-Sufficiency Plan (FSSP) unless good cause 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.

In the present case, the Department alleged that it issued to Claimant a Notice of Noncompliance, but no such notice was proffered into evidence. Claimant testified credibly at the hearing that she did not receive the Notice of Noncompliance. Without proof that Claimant was given a Notice of Noncompliance containing the dates she was allegedly in noncompliance, I cannot find that Claimant was in fact in noncompliance. BEM 233A. In addition, Claimant testified credibly as to good cause for failure to comply with required activities, that is, care of herself after gallbladder surgery as to the [REDACTED] 1 appointment, and care of her ill son as to the [REDACTED] appointment. Therefore, the Department was incorrect in closing Claimant's FIP case due to noncompliance with employment and/or work-related activities.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was incorrect in its decision to close Claimant's FIP case and it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department reinstate Claimant's FIP case, effective [REDACTED], if Claimant meets all other eligibility factors. Furthermore, the Department is ORDERED to issue Claimant any missed or increased benefits in the form of a supplement.



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

Date Signed: 6/1/11

Date Mailed: 6/1/11

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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.

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