

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-32833
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 9, 2011
DHS County: Macomb (50-12)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on Thursday, June 9, 2011. The Claimant appeared and testified. The Claimant was represented by [REDACTED]. [REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits due to non-compliance with the Jobs, Education, and Training ("JET") program?

FINDINGS OF FACT

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

1. The Claimant is a FIP recipient.
2. On December 16, 2010, the Department sent the Claimant an Appointment Notice instructing her to attend the JET program on January 3, 2011, at 8:30a.m.
3. The Claimant received the Appointment Notice.
4. The Claimant contacted the Department, leaving messages that she was unable to attend the January 3, 2011, appointment due to the lack of child care.

5. The Department referred the Claimant's case for triage. (Exhibit 2)
6. On February 4, 2011, a Notice of Non-compliance was sent to the Claimant instructing her to attend the triage on February 22, 2011. (Exhibit 1)
7. The Claimant contacted the Department, stating she would be out of town but would be available by telephone.
8. The Department did not call the Claimant for triage and found no good cause for the JET non-compliance.
9. On February 22, 2011, the Department sent a Notice of Case Action to the Claimant informing her that her FIP benefits were pended for closure. (Exhibit 3)
10. On March 7, 2011, the Department received the Claimant's timely written request for hearing. (Exhibit 4)
11. As a result of the timely hearing request, the Department deleted the negative action.

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, formerly known as the Family Independence Agency, administers FIP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3101-3131. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A. All Work Eligible Individuals ("WEI") 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 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. Good cause includes the lack of child care. BEM 233A.

In this case, the Department sent the Claimant an Appointment Notice to participate in the JET program. The Claimant testified credibly that she made multiple telephone calls to the Department to state she was unable to attend due to the lack of child care for her physically impaired child. The Claimant did not receive a return phone call. In accordance with policy, the Department scheduled a triage to discuss whether good cause existed for the JET non-compliance. The Claimant informed the Department that she would be out of town on the triage date but would be available by telephone. The Department did not call the Claimant for the triage. The Claimant stated that her son is physically impaired (supported by a physician's statement) and that she, at that point, did not have appropriate or suitable arrangements. In accordance with policy, the Claimant is able to request child care services in order to remove the barrier. Ultimately, under the facts presented, the Claimant established good cause for the JET non-compliance. In light of the foregoing, the Department's determination is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Claimant established good cause for the JET non-compliance.

Accordingly, it is ORDERED:

1. The Department's determination is not upheld.
2. The 3-month FIP sanction for JET non-compliance is not imposed.

3. The Department shall reinstate the Claimant's FIP benefits back to the date of closure and supplement the Claimant for any lost benefits (if any) she was entitled to receive if otherwise eligible and qualified in accordance with Department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: June 14, 2011

Date Mailed: June 16, 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.

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.

CMM/pf

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