

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-35000
Issue No. 1038
Case No. [REDACTED]
Hearing Date: June 23, 2011
Macomb (12)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on June 23, 2011. Claimant appeared and testified. [REDACTED], Family Independence Specialist, appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether DHS terminated Claimant from the Family Independence Program (FIP) in accordance with its policies and procedures?

FINDINGS OF FACT

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

1. In 2011, DHS provided FIP benefits to Claimant.
2. DHS required Claimant to participate in the Jobs, Education and Training (JET) program in order to receive FIP benefits.
3. There is no DHS Notice of Noncompliance with JET requirements in the record, making it impossible to determine the exact date of noncompliance DHS identifies in this case.

4. On May 10, 2011, DHS sent Claimant a Notice of Case Action terminating her FIP benefits effective June 1, 2011.
5. There is no DHS Notice of Case Action in the record, making it impossible to determine the stated reason for the termination of Claimant's benefits.
6. On May 23, 2011, Claimant submitted a Request for a Hearing to DHS.

CONCLUSIONS OF LAW

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3101-400.3131. Department policies are found in Bridges Administrative Manual I (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

BAM, BEM and RFT are the policies and procedures DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan State Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

First, BEM 230A, "Employment and/or Self-Sufficiency-Related Activities: FIP/RAP [Refugee Assistance Program] Cash," follows Federal and State law, which require that every work-eligible individual must participate in the JET Program or other work-related activities unless the person is temporarily deferred or engaged in other activities that meet participation requirements. BEM 230A.

Next, BEM 233A, "Failure to Meet Employment and/or Self-Sufficiency-Related Requirements: FIP," also governs DHS' action in this case.

BEM 233A begins with a significant statement of the Department's Philosophy:

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. **Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency.** However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to **obtain client compliance** with appropriate work and/or self-sufficiency related assignments and to

ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. **Consider further exploration of any barriers.** *Id.*, p. 1 (emphasis added).

I find that DHS is very clear in this paragraph that the goal is to identify and remove barriers to employment, and the DHS goal is *not* to penalize customers for generalized failures and mistakes. I also read this section to mean that if the customer shows good cause for their action or failure to act, that action or failure to act will be excused and will not be held against them, and no penalties will be imposed.

Applying this section to the facts of the case before me, I find and conclude that DHS committed error and must be REVERSED. I find and determine that the goals of the agency were not met in this case. I find and conclude that DHS failed to identify a specific date on which noncompliance occurred, and because no date was identified, DHS cannot possibly determine what, if any, act or failure to act occurred, and what, if any, barriers to employment and self-sufficiency existed on that day.

My decision in this case is that because DHS failed to establish the actual date that noncompliance occurred, it is impossible to determine what the non-compliant act, or failure to act, consisted of. I find and conclude that Claimant is entitled to know on what date or dates she failed to comply. This notification gives meaning to the good cause question, because unless the client knows what day they failed to do something, the client has no way to present their individual circumstances and establish good cause.

In conclusion, based on the findings of fact and conclusions of law above, I REVERSE the Department's action in this case and reinstate Claimant's benefits from June 1, 2011. IT IS ORDERED that Claimant's FIP benefits are reinstated, any penalties shall be revoked, DHS shall re-enroll Claimant in the JET program, and her benefits shall be supplemented retroactive to June 1, 2011 or other appropriate date, and continued on an ongoing basis.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, REVERSES the Department's termination of Claimant's FIP benefits. IT IS ORDERED that DHS shall reinstate Claimant's FIP benefits, DHS shall rescind all penalties imposed on Claimant, DHS shall delete any negative case actions taken, and DHS shall provide to Claimant all appropriate supplemental retroactive benefits. IT IS FURTHER ORDERED that DHS shall re-enroll Claimant in the JET program as a requirement for receiving FIP and FAP benefits.

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All steps taken by DHS shall be in accordance with this Opinion and DHS policies and procedures.



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

Date Signed: June 27, 2011

Date Mailed: June 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.

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.

JL/cl

cc:

