

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-35134
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 27, 2011
Wayne County DHS

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 June 27, 2011. Claimant appeared and testified. [REDACTED] FI Case Manager, and [REDACTED] JET Coordinator, appeared on behalf of the Department of Human Services (Department or DHS.)

ISSUE

Was the Department correct in its decision to close 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 on 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 attended the JET program as assigned.

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5. The Department issued a Notice of Noncompliance on February 15, 2011 with a due date of February 25, 2011.
6. Claimant did not appear for the due date and Claimant's FIP case was put into closure on February 28, 2011.
7. Claimant filed a hearing request on March 14, 2011, but withdrew the hearing because the Department agreed to reinstate the Claimant's FIP case if she would agree to comply by attending Work First on March 28, 2011.
8. Claimant attended Work First on March 28, 2011, but the Work First worker sent Claimant home because Claimant indicated she would have to leave early to pick up her children from the bus stop.
9. The Department closed Claimant's case, effective June 1, 2011, for failing to attend the March 28, 2011 appointment.
10. Claimant requested a hearing, protesting 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 of Human Services ("DHS" or "Department"), formerly known as the Family Independence Agency, administers the FIP program 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 Jobs, Education, and Training Program ("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 results in a 3 month FIP closure. BEM 233A The third occurrence results in a 12 month sanction.

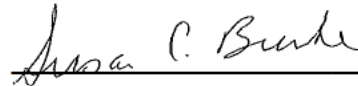
JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A In addition, a triage must be held within the negative action period. BEM 233A A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A.

In the present case, Claimant withdrew a hearing request with the understanding that the Department would reinstate her case if she attended an appointment with Work First on March 28, 2011. To memorialize this agreement, the Department presented a First Noncompliance Letter to Claimant, which Claimant signed on March 24, 2011. Claimant testified at the hearing that it was not until she returned to her home that she read the Letter and saw that the box was checked that she agreed she was in noncompliance. Claimant further testified that she had good cause for noncompliance, that is, health issues that prevented her from attending an appointment in January. Claimant also understood that she was to attend a March 28, 2011 appointment, which she did attend, but was sent home by the Work First worker because Claimant indicated she had to leave early to pick up her children from the bus stop.

What gives this Administrative Law Judge concern is that Claimant only withdrew her request for hearing with the understanding that the Department would reinstate her case if she attended a JET appointment. Forms are signed easily when an agreement is made to reinstate benefits. I am not persuaded that Claimant agreed that she was in noncompliance and I am not persuaded that Claimant was adequately prepared to attend the appointment with all the requisite demands that would prevent her from picking up her children from the bus stop. A review of prior Case Notes shows that Claimant worked hard to stay in compliance with JET demands. Based on the above discussion, I find that the Department was not correct to close Claimant's FIP case due to noncompliance with work-related activities.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law decides that the Department's decision to close Claimant's FIP case was not correct, and it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall reinstate Claimant's FIP case, effective June 1, 2011, if she is otherwise eligible, and all missed or increased payments shall be made in the form of a supplement.



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

Date Signed: 6/30/11

Date Mailed: 6/30/11

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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