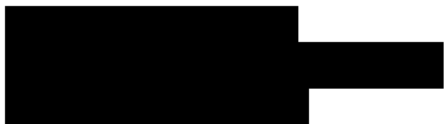


STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 2011-36349  
Issue No. 1038  
Case No. [REDACTED]  
Hearing Date: June 30, 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 30, 2011. Claimant appeared and testified. [REDACTED] [REDACTED] FIM, appeared on behalf of the Department of Human Services (DHS or Department.)

**ISSUE**

Was the Department correct in its decision to close Claimant's Family Independence Program (FIP) case and decrease Claimant's Food Assistance Program (FAP) benefits 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 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. The Department issued a Notice of Noncompliance stating that Claimant and a group member did not participate in required activity on April 18, 2011.

6. Claimant's child had health and child care issues during the time of the alleged noncompliance.
7. Claimant's group member was employed, with only a brief lay-off period, during the time of the alleged noncompliance.
8. The Department closed Claimant's FIP and decreased Claimant's FAP benefits, effective June 1, 2011, due to noncompliance with employment-related activities.
9. Claimant requested a hearing, contesting 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 (PRM.)

FAP was 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 CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in BAM, BEM and the PRM.

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

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

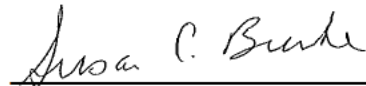
In the present case, the Department issued a Notice of Noncompliance stating that Claimant and a group member failed to participate in required activities on April 18, 2011. Claimant testified credibly at the hearing that she was not able to participate in required activity due to her child's health issues and that her group member had been recently laid off from a job on April 13, 2011, but at the time of the triage on May 3, 2011, he had obtained another job. In addition, although Claimant's Child Development and Care case was active, her provider could not get the required training until June 10, 2011.

As to Claimant, I am satisfied that her daughter's health and child care issues subjected Claimant to "an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities." BEM 233A. As to Claimant's group member, it appears that he was briefly laid off but was otherwise employed, so I find that he was in compliance with work-related activities. It is noted that no one from Work First or any person from the Department who participated in the triage testified at the hearing.

Based on the above discussion, I find that the Department was not correct in its decision to close Claimant's FIP case and decrease Claimant's FAP benefits 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 not correct in its decision to close Claimant's FIP case and decrease Claimant's FAP benefits due to noncompliance with employment and/or work-related activities. It is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall reinstate Claimant's FIP and FAP cases and restore benefits effective June 1, 2011 and any 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: 7/1/11

Date Mailed: 7/1/11

**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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