

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-38917
Issue No. 1038
Case No. [REDACTED]
Hearing Date: July 21, 2011
Macomb County DHS (20)

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 July 21, 2011 in Detroit, Michigan. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED] [REDACTED] also testified on behalf of the Department.

ISSUE

Was the Department correct in closing Claimant's Family Independence Program (FIP) case and decreasing 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 until May 19, 2011.
5. Claimant did not attend JET classes on May 19, 2011, May 25, 2011 and May 26, 2011.
6. Claimant was ill on May 19, 2011.
7. Claimant's fiancé was ill on May 25, 2011.
8. The Department closed Claimant's FIP case and decreased Claimant's FAP benefits effective July 1, 2011 due to noncompliance with employment-related activities.
9. On June 16, 2011, 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.

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 the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual, which includes the Reference Tables (RFT).

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

In the present case, Claimant admits that she was absent from her JET assignments on May 19, 2011, May 25, 2011 and May 26, 2011. Claimant stated that she was ill on May 19, 2011, and although medical personnel indicated that Claimant could return to work on May 19, 2011, Claimant testified credibly at the hearing that her illness overlapped into May 19, 2011, and that she did attend the JET assignment, but had to leave due to her illness.

As to May 25, 2011, Claimant stated that her fiancé was gravely ill and he needed assistance. I am not persuaded that Claimant had good cause to miss the Jet assignment, as she was not an official caregiver of her fiancé, and as Claimant testified that her fiancé's condition was ongoing, Claimant and her fiancé could have made other arrangements to assist him while Claimant attended JET assignments.

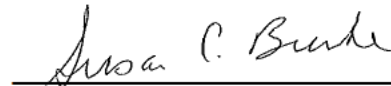
As to May 26, 2011, Claimant stated that she chose not to attend the class because she thought she had exceeded the allowed eighteen hours of missed classes. Claimant admitted at the hearing that she should have contacted her worker.

I am not satisfied that Claimant was subjected to "an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities." BEM 233A. Although Claimant had good cause to have missed the May 19, 2011 assignment due to illness, she did not have good cause to miss the other two assignments.

Claimant raised the argument that the notice she received showed a start date for the class of "9-16-2011," not "5-16-11." However, Claimant was well aware of the start date, as she attended as required on May 16, 2011. The Department testified credibly that the notice contained a typo which would have been easily understood by Claimant, as she had already started classes in May.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to close Claimant's FIP case and decrease Claimant's FAP benefits was correct, and it is therefore ORDERED that the Department's decision is hereby AFFIRMED.



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

Date Signed: July 26, 2011

Date Mailed: July 26, 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.

SB/cl

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