

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

IN THE MATTER OF:



Reg. No.: 201140198
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 3, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Susan 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 August 3, 2011 in Detroit, Michigan. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED]

ISSUE

Was the Department correct in its decision to close Claimant's Family Independence Program (FIP) case due to noncompliance with 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 Family Independence Program (FIP) recipient.
2. Claimant participated in work-related activities by obtaining and maintaining employment.
3. The Department closed Claimant's FIP case April 1, 2011, due to noncompliance with work-related activities.
4. Claimant requested a hearing, protesting the closure, on June 22, 2011.

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.

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 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, the Department alleged that Claimant did not comply with work-related activities. However, Claimant testified credibly that she began a job on the day she was to report to Work First. Claimant testified further that she received a verification of employment form after her FIP case was sanctioned. Because Claimant was working, I cannot find that Claimant was in noncompliance nor can I find that the Department was correct in its decision to close Claimant's FIP case for noncompliance. It is noted that the testimony from the Department representative indicated that Claimant's case was closed due to noncompliance, not due to failure to verify or cooperate. However, even if the Department closed Claimant's case due to failure to verify, I find that the Department's decision was not correct, as the Department told Claimant that the Department sanctioned Claimant's case prior to her receiving the

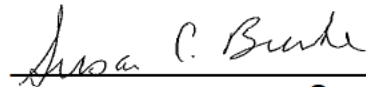
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verification request, thus giving Claimant the understanding that her best avenue was to request a hearing.

DECISION AND ORDER

The Administrative Law Judge, based on 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 it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall:

1. Reinstate Claimant's FIP case effective April 1, 2011, if she is otherwise eligible.
2. Issue Claimant supplements for missed payments.



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

Date Signed: 8/12/11

Date Mailed: 8/12/11

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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