

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-41628  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: August 10, 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 August 10, 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 recipient of FIP.
2. On March 23, 2011, the Department issued to Claimant a Jobs Education and Training (JET) notice for an appointment on April 4, 2011.
3. Claimant received the JET April 4, 2011 appointment notice on April 4, 2011, after the appointment time of 8:30 a.m.
4. Claimant did not attend the April 4, 2011 appointment.

5. The Department issued a Notice of Noncompliance on May 4, 2011, stating that Claimant did not participate in work-related activities on March 23, 2011.
6. The Department held a phone triage (duage) with Claimant on May 10, 2011.
7. The Department issued a First Noncompliance Letter, which Claimant did not sign, assigning Claimant another appointment on May 23, 2011.
8. Claimant did not attend the May 23, 2011 appointment.
9. The Department closed Claimant's case, effective July 1, 2011, due to noncompliance with work-related activities.
10. Claimant requested a hearing on June 30, 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 of Human Services (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).

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

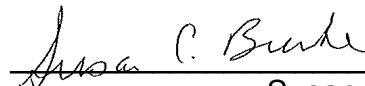
penalty duration. BEM 233A. (Emphasis added. ) In addition, a triage must be held within the negative action period. BEM 233A.

In the present case, Claimant testified credibly that she did not attend the JET appointment of April 4, 2011, because she received the notice for the appointment on that date at a later time than the appointment of 8:30. I find that this is a good cause reason, i.e. circumstances beyond her control, for her to not attend the appointment. I also note that the Notice of Noncompliance indicated March 23, 2011, not April 4, 2011, as a date of noncompliance. However, the Department conceded that the correct date of noncompliance was April 4, 2011. Since I find that Claimant had good cause to not attend the first appointment of April 4, 2011, it is not necessary to address the second missed appointment which occurred after the triage or duage addressing the issue in the Notice of Noncompliance. Based on the above discussion, I find that the Department was not correct in its decision 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 was not correct in closing Claimant's FIP case due to noncompliance with work-related activities. 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 July 1, 2011, if Claimant is otherwise eligible.
- 2.) Restore Claimant's Food Assistance Program (FAP) benefits if they were decreased by the close of Claimant's FIP case, effective July 1, 2011, if Claimant is otherwise eligible for FAP.
- 3.) Issue supplements for any missed or increased FIP or FAP payments.

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

Date Signed: 8/16/11

Date Mailed: 8/16/11

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**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/sm

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