

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

IN THE MATTER OF:



Reg. No.: 201142922
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 15, 2011
Wayne County DHS (17)

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 15, 2011 in Detroit, Michigan. Claimant appeared and testified. [REDACTED] Family Independence Specialist, appeared on behalf of the Department of Human Services (Department). Interpreter [REDACTED] assisted Claimant.

ISSUE

Was the Department correct in denying Claimant's Family Independence Program (FIP) application due to failure to participate in 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 applied for FIP on April 16, 2011.
2. On April 16, 2011, the Department issued a Jobs, Education and Training (JET) appointment notice for an appointment date of April 26, 2011.
3. Claimant attended the appointment of April 26, 2011, but was sent home by an "ACCESS" worker.
4. The Department denied Claimant's FIP application due to failure to participate in work-related activities.
5. Claimant requested a hearing, protesting the denial of her FIP case.

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.

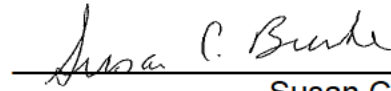
JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. In processing a FIP closure, the Department is required to send the client a Notice of Noncompliance (DHS-2444) which must include 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 JET appointment notice for April 26, 2011. Claimant testified credibly that she attended the appointment, but when she explained health issues to the ACCESS worker, the worker sent Claimant home and told her not to come back and a Department worker would be getting in touch with Claimant. However, the ACCESS worker did not communicate this decision to the Department, so the Department was under the erroneous belief that Claimant did not attend the appointment. Based on the above discussion, it is found that the Department was not correct in its decision to deny Claimant's FIP application due to failure to participate in 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 was not correct in its decision to deny Claimant's FIP application. It is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED:

1. The Department shall reinstate and reprocess Claimant's FIP application of April 16, 2011.
2. If Claimant is found to be eligible, the Department shall issue supplements for missed payments.



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

Date Signed: August 19, 2011

Date Mailed: August 19, 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.

SCB/ hw

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