

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201144359
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 18, 2011
Wayne County DHS (49)

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 18, 2011 in Detroit, Michigan. Claimant appeared and testified. Majer Drew, Claimant's neighbor, also testified on behalf of Claimant. The Department of Human Services (Department) was represented by [REDACTED], Family Independence Specialist. [REDACTED], JET Case Manager, also testified.

ISSUE

Was the Department correct in its decision to close Claimant's Family Independence Program (FIP) case due to failure to comply 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 FIP recipient.
2. The Department required Claimant to attend the Jobs Education and Training (JET) program.
3. Claimant attended the JET program orientation, but did not attend classes thereafter due to physical limitations.
4. The Department issued a Notice of Noncompliance to Claimant indicating a noncompliance date of July 11, 2011, and thereafter held a triage, finding no good cause.

5. The Department closed Claimant's FIP case on July 21, 2011 due to noncompliance with work-related activities.
6. Claimant requested a hearing, protesting 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.

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.

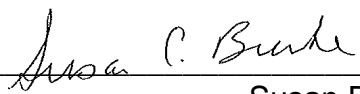
In the present case, Claimant testified credibly that she did not attend the JET program activities due to physical limitations. Claimant's testimony was supported by her neighbor, who testified that he observed Claimant being unable to walk, sometimes not being able to stand, and that he assisted Claimant in activities. A medical needs form indicates that Claimant would be able to work, with weight limitations, but the form also indicates that Claimant would need assistance in dressing, meal preparation, shopping, laundry and housework. The JET case manager indicated that Claimant would have to be job-ready to participate in JET and he did not feel she was job-ready, based on his

reading of the medical needs form. The JET case manager stated that Claimant would be required to sit in a classroom from nine o'clock a.m. to four o'clock p.m. for the first week of JET and the next week Claimant would be required to look for a job for half of the day. Even though the medical needs form indicated that Claimant could work, I do not find that Claimant could specifically have attended the JET program to perform as required on the date of noncompliance, July 11, 2011. Based on the above discussion I find that Claimant was subject to factors that were beyond her control, and therefore had good cause for not attending the JET program. The Department was therefore not correct in its decision to close Claimant's FIP case.

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. It is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall:

1. Remove the negative action on Claimant's FIP case, effective July 21, 2011.
2. Initiate reinstatement of Claimant's FIP case, effective the date of closure, July 21, 2011, if Claimant is otherwise eligible.
3. Initiate the restoration of Claimant's FAP benefits, if any, that were decreased due to the FIP case closure as of the date of the closure.
4. Issue supplements for any missed or increased FIP or FAP payments from July 21, 2011 and ongoing.



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

Date Signed: August 24, 2011

Date Mailed: August 24, 2011

201144359/SCB

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

cc:

