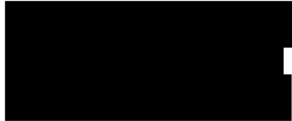


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg.No. 201147558
Issue No. 1038
Case No. [REDACTED]
Hearing Date: September 15, 2011
County: Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Andrea J. Bradley

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon the Claimant's request for a hearing made pursuant to Michigan Compiled Laws 400.9 and Michigan Compiled Laws 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was conducted from Detroit, Michigan on Thursday, September 15, 2011. The Claimant, [REDACTED], appeared and testified. Ms. Janice Coles, Family Independence Manager, and Ms. L. Perry, Jet Coordinator, Kenneth Jackson, Case Worker with the Michigan Works Agency, appeared and testified on behalf of the Department of Human Services (Department).

ISSUE

Whether the Department acted in accordance with Department policy when it closed claimant's FIP case due to noncompliance with employment-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 on-going FIP recipient.
2. As a FIP recipient, the Claimant was required to participate in employment-related activities.
3. To fulfill this requirement, the Claimant was assigned to the Jobs, Education and Training (JET) program.

4. As a part of the JET program, the Claimant was required to provide the Department with documentation showing that she participated in the JET program for twenty (20) hours per week.
5. On July 22, 2011, the Department sent Claimant a Notice of Noncompliance concerning her failure to participate in the required Jobs, Education and Training (JET) program on July 19, 2011. (Exhibit 1.)
6. The July 22, 2011, Notice of Noncompliance informed Claimant that the noncompliance was Claimant's first or second noncompliance offense and scheduled a triage on July 29, 2011.
7. Claimant participated in the triage and provided the Department with documentary evidence showing her twenty hour per week participation with the JET program.
8. On July 29, 2011, the Department sent Claimant a Notice of Case Action, closing her FIP case for a three-month period, based on Claimant's failure to participate in job-related activities without good cause.
9. On August 15, 2011, Claimant timely requested a hearing to dispute the Department's action closing her FIP case for three months.

CONCLUSIONS OF LAW

The Family Independence Program ("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 (DHS or Department), formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq* and Michigan Administrative Code Rules 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Table (RFT).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A All Work Eligible Individuals ("WEI") 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 Jobs, Education, and Training Program (JET) 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 results in a 3 month FIP closure. BEM 233A The third occurrence results in a 12 month sanction.

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 Additionally, 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. The Department is required to make a determination as to whether Claimant had good cause for her noncompliance with the JET program based on the best information available to it. BEM 233A.

In this case, the Department testified that the Claimant had not participated in the JET program since April of 2011. The Claimant contradicted this and testified that she participated in the JET program on a weekly basis by volunteering. In support of her testimony, the Claimant produced her weekly time sheets which were signed and verified by her volunteer supervisor. It is the position of the Department that the Claimant failed to provide the Department with the time sheets signed by the volunteer supervisor on a weekly basis; therefore it had no reason to know of the Claimant's compliance with the JET program. The Department admitted that the Claimant brought the signed and verified timesheets to the July 29, 2011 triage, but it still found non-compliance based on the Claimant's failure to fax the documents to the Department on a weekly basis. The Claimant again contradicted the Department and testified that she did indeed fax the documents. But the Claimant failed to produce any documentary support, i.e., fax confirmation, to support her contentions. Lastly, the Department argued that, based on the FIP grant, the Claimant was required to do eighteen (18) hours of volunteer time and two (2) hours of job-seeking with MWF.


Based on the documentary evidence and the Claimant's credible testimony on the record, the Department's finding of non-compliance was not in accordance with Department policy. The Department is obligated to use the best available information that it had at the time of the triage. The Department could properly conclude, based on the best information available to it at the July 29, 2011 triage, that the Claimant participated with the JET program by volunteering weekly for twenty hours. Further, the Department failed to establish by a preponderance of the evidence that the Claimant knew that two hours out of the twenty hour requirement were to be done as job-seeking at work first. The Department admitted that from 2009 to April of 2011, the Claimant was allowed to perform twenty hours volunteer time to meet the JET requirements. The Department failed to provide evidence of how the change in requirements was communicated to the Claimant and that the Claimant understood the change in requirements. Of particular importance is that the Claimant continued to volunteer for twenty hours and did not reduce it to the eighteen hours after April of 2011. Under these facts, the Department failed to establish that it acted in accordance with Department policy when it closed the Claimant's FIP case for noncompliance with employment-related activities. To that end, the Claimant's FIP case should be reinstated and claimant should be provided with all benefits lost as a result of the closure.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department was in error in closing claimant's FIP case for noncompliance.

Accordingly, it is ORDERED:

1. The Department's closure of the FIP benefits is REVERSED.
2. The Department shall begin to reinstate claimant's FIP benefits for which she is eligible to receive in accordance with Department policy.
3. The Department shall supplement the Claimant for all FIP benefits lost as a result of the closure, if she is otherwise eligible.


Andrea J. Bradley
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 09/23/11

Date Mailed: 09/26/11

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.

AJB/dj

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