STATE OF MICHIGAN

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

IN THE MATTER OF:



Reg. No.: 201148801 Issue No.: 1038; 3029 Case No.:

Hearing Date: September 26, 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, at elephone hearing was held on September 26, 2011 from Detroit, Michigan. Claimant appeared and testified. The Department of Human Services (Department) was represented by FIS Worker.

<u>ISSUE</u>

Was the Department correct in i ts decision to close Claimant's Family Independence Program (FIP) case and to impose a negative sanction on Claimant's FIP case due to failure to participate in work-related activities?

FINDINGS OF FACT

The Administrative Law Judge, based on t he competent, material, and substantial evidence on the whole record, finds as material fact:

- Claimant was an ongoing FIP recipient.
- 2. The Department assigned Claimant to the Jobs Education and Training (JET) program, Monday through Friday.
- Claimant did not attend the J ET program since the week of July 3, 201 1 and through July 25, 2011.
- Claimant took her son to a medical ap pointment, which included immunizations, on July 13, 2011.

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- 5. Claimant was pregnant and nauseous during some of the period in question.
- 6. The Department issued a Notice of Noncompliance to Claimant on July 26, 2011, and thereafter held a triage without Claim ant being present, finding no good cause.
- 7. The Department closed Claimant's FIP case effective September 1, 2011 due to Claimant failing to participate in work-related activities, and imposed a sanction of three months.
- 8. Claimant requested a hearing on August 9, 2011, protesting the negative action.

CONCLUSIONS OF LAW

FIP was e stablished pursuant to the Pers onal Resp onsibility a nd 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 Depar tment requires clients to partici pate in employment and s elf-sufficiencyrelated activities and to accept employment when offered. BEM 230A; BEM 233A. All Work Eligible Indiv iduals (WEIs) are required to participate in the development of a Family Self-Sufficiency Pla n (F SSP) u nless good c ause e xists. BEM 228. As condition of eligibility, all WEIs must enga ge in employment and/ or self-sufficiencyrelated activities. BEM 233A. The WEI is consid ered non-compliant for failing o r refusing to appear and participate with the JET Program or othe r employment service provider. BEM 233A. Good cause is a valid reason for noncompliance with employment and/or s elf-sufficiency-related activities that are bas ed on factors that are beyond the control of the noncompliant per son. BEM 233A. Failure to comply without good cause results in FIP closure. BEM 2 33A. The first and second occ urrences of non-compliance result in a th ree-month FIP closure. BE M 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 te rminated 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.

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In the present case, Claimant and the Department represent ative agreed that Claimant was required to attend the J ET program five d ays per week . Claimant could not substantiate that she attended the JET program for the weeks of July 10, 2011, July 17, 2011 and the day of July 25, 2011. The only clear good-cause exception for Claimant not attending the JET program was a visit to the doctor for Claimant's son on July 13, 2011 for her son's immunizations. Claimant testified that she was nauseated due to her pregnancy so she did not attend on some days during the time frame of absences from the JET program, but she did not offer proof as to specific days of illness. Claimant also ET computer classes, but s he had no written proof or stated that she attended J otherwise to substantiate that she attended the Jet comput er classes during the week s of July 10, 2011, July 17, 2011 and the day of July 25, 2011. Based on the abov e discussion I find that Cla imant failed to comply with work-related activities and that the Department was therefore correct in its decision to impose a sanction on Claimant's FIP case and 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 cor rect in its decision to impose a negative sanction on Claimant 's FIP c ase and to c lose Claimant's FIP case. It is therefore ORDERED that the Department's decision is AFFIRMED.

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

Date Signed: 9/30/11

Date Mailed: <u>9/30/11</u>

NOTICE: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order. MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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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