

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201150392
Issue No. 1038
Case No. [REDACTED]
Hearing Date: October 3, 2011
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Susan 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 October 3, 2011 from Detroit, Michigan. Claimant appeared and testified. Participants on behalf of the Department of Human Services (Department) were [REDACTED] and [REDACTED] Michigan Works.

ISSUE

Was the Department correct in its decision to place a negative sanction on Claimant's Family Independence (FIP) case and close Claimant's FIP case 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 was an ongoing recipient of FIP.
2. Claimant was assigned to the Jobs Education and Training (JET) program.
3. The Department issued Claimant a Notice of Noncompliance on July 26, 2011, stating that Claimant did not participate in required activity on July 21, 2011.
4. The Department held a triage with Claimant and a Michigan Works participant on August 18, 2011 and the Department found no good cause.

5. The Department placed a one year sanction on Claimant's FIP case and closed Claimant's FIP case effective September 1, 2011.
6. Claimant requested a hearing on August 16, 2011, 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. (Emphasis added.) BEM 233A.

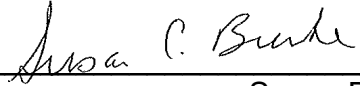
In the present case, the Department issued a Notice of Noncompliance, stating that Claimant did not participate in required activities on July 21, 2011. However, the testimony and exhibits from the Department spoke to Claimant's non-participation in required activity on July 7, 2011, July 8, 2011, July 11, 2011 and July 12, 2011. The Department therefore did not follow its own policy by including the alleged dates of the noncompliance in the DHS-2444. In addition, the Department did not prove that Claimant was noncompliant on July 21, 2011, the alleged date of noncompliance in the DHS-2444. Based on the above discussion I find that the Department was not 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 not correct in its decision to impose a negative sanction on Claimant's FIP case and 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 one-year sanction imposed on Claimant's FIP case, which sanction was effective September 1, 2011.
- 2.) Initiate reinstatement of Claimant's FIP case, effective September 1, 2011, if Claimant is otherwise eligible for FIP.
- 3.) Initiate issuance of supplements, effective September 1, 2011, and ongoing, if Claimant is otherwise eligible for FIP.



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

Date Signed: 10/6/11

Date Mailed: 10/6/11

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

201150392/SCB

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.

SCB/sm

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