

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201150796
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: September 29, 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, a telephone hearing was held on September 29, 2011 from Detroit, Michigan. Claimant appeared and testified. [REDACTED] FIS, appeared on behalf of the Department of Human Services (Department.)

ISSUE

Was the Department correct in its decision to place a negative action on Claimant's Family Independence Program (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 FIP recipient.
2. The Department assigned Claimant to the Jobs Education and Training (JET) program.
3. Claimant attended the JET program.
4. On June 16, 2011, the Department issued a Notice of Noncompliance, stating that Claimant failed to participate in work-related activities on June 3, 2011, and set an appointment for triage for June 23, 2011.

5. Claimant was attending ██████ Schools full time in the ██████ program Monday through Friday at the time of the alleged non-participation period.
6. Claimant did not attend the triage set for June 23, 2011.
7. It is unknown whether a triage was held in Claimant's absence.
8. The Department imposed a negative action on Claimant's FIP case and closed Claimant's FIP case, effective July 1, 2011, for failing to participate in work-related activities.
9. Claimant requested a hearing on August 17, 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 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. Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA. **Good cause must be considered even if the client does not attend**, (emphasis added) with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation.

In the present case, it is unknown whether the Department held a triage in Claimant's absence as required by Department policy, as no evidence was presented that the triage was held. In addition, I am not convinced that the Department made a proper determination of good cause because there is no evidence of a good cause determination and the reasoning behind the determination. Furthermore, Claimant testified credibly and submitted documentation that she was participating in work-related activities at the time of the alleged nonparticipation of June 3, 2011 by attending a [REDACTED] program full time. Based on the above discussion, the Department did not establish that Claimant failed to comply with work-related activities and the Department was therefore not correct in its decision to impose a sanction on Claimant's FIP case and close Claimant's FIP case.

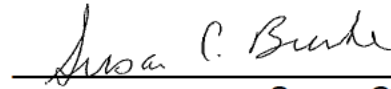
DECISION AND ORDER

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 negative sanction on Claimant's FIP case.
2. Initiate reinstatement of Claimant's FIP case, effective July 1, 2011, if Claimant is otherwise eligible for FIP.

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3. Initiate issuance of supplements for any missed FIP payment, July 1, 2011 and ongoing, if Claimant is otherwise eligible for FIP.



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

Date Signed: 10/5/11

Date Mailed: 10/5/11

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)

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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