

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-7160
Issue No.: 1012
Case No.: [REDACTED]
Hearing Date: December 13, 2010
DHS County: Wayne (82-41)

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 December 13, 2010. Claimant appeared and testified. [REDACTED] [REDACTED] appeared on behalf of the Department of Human Services (Department).

ISSUE

Did the Department correctly impose a negative case action and three-month sanction upon Claimant's Family Independence Program (FIP) case for noncompliance with work-related activities?

FINDINGS OF FACT

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

FINDINGS OF FACT

1. Claimant was a FIP recipient.
2. As a FIP recipient, Claimant was required to participate in employment-related activities.
3. To fulfill this requirement, Claimant was assigned to the Jobs, Education and Training (JET) program.
4. Claimant attended the JET program as assigned.
5. The Department did not submit into evidence a Notice of Noncompliance.

6. On August 4, 2010, the Department imposed a negative case action and three-month sanction upon Claimant's FIP case due to noncompliance with employment-related activities.
7. Claimant requested a hearing on August 9, 2010, contesting 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 FIP 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 noncompliant 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 noncompliance result in a three-month FIP closure. BEM 233A. The third occurrence results in a twelve-month sanction.

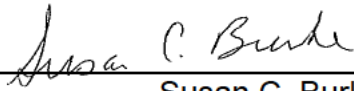
JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the noncompliance, the reason the client was determined to be noncompliant, and the penalty duration. BEM 233A.

In the present case, the Department failed to submit into evidence a notice of noncompliance, DHS-2444. Without information from the notice of noncompliance, the Department had insufficient evidence to prove to this Administrative Law Judge that a negative action was correctly imposed. The Department was, therefore, incorrect in imposing a negative action and three-month sanction on Claimant's FIP case for noncompliance with work-related activities.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was incorrect in imposing a negative action and three-month sanction on Claimant's FIP case.

Accordingly, the Department's decision in the above-stated matter is, hereby, REVERSED. The Department is ORDERED to reinstate Claimant's FIP benefits as of September 1, 2010, if Claimant meets all other eligibility factors. Furthermore, the Department is ORDERED to issue Claimant any benefits missed as a result of the negative action.



Susan C. Burke
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 3, 2011

Date Mailed: January 4, 2011

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/pf

cc:

