

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-7446
Issue Nos.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: December 15, 2010
DHS County: Macomb (50-12)

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 15, 2010. Claimant appeared and testified. [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 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:

1. Claimant is a Family Independence Program (FIP) and Food Assistance Program (FAP) benefits recipient.
2. As a condition for eligibility in the FIP and FAP programs, Claimant is a mandatory participant in work-related activities.
3. On April 12, 2010, Claimant was assigned to 10 hours of Community Service Projects (CSP) and 20 hours of job searching per week.
4. Claimant's daughter was hospitalized on [REDACTED]. Throughout [REDACTED] 0, Claimant took her daughter to the hospital for the emergency room services related to her hospitalization.

5. Claimant was short four hours needed for the month of September for CSP and job search.
6. On October 14, 2010, Claimant did not attend a meeting relating to her work-related activities.
7. On October 15, 2010, the Department sent Claimant a notice of noncompliance with Jobs, Education and Training (JET) program requirements and scheduled a triage for October 28, 2010.
8. At the triage, the Department found that Claimant did not have good cause for exceeding the 16 absent hours allowed per month.
9. The Department put Claimant's FIP and FAP cases into negative action on October 28, 2010.
10. Claimant requested a hearing on November 2, 2010, contesting the Department's 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 (PRM).

FAP was established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department administers FAP pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in BAM, BEM and PRM.

DHS 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. Noncompliance without good cause with employment requirements for FIP may affect FAP if both programs were active on the date of the FIP noncompliance. BEM 233B.

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 non-compliance, 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. A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A.

Good cause includes credible information indicating an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. BEM 233A.

In the present case, Claimant credibly testified that she was assisting her daughter throughout the month of [REDACTED] with health care issues such as hospitalization and emergency room visits. The Department indicated that Claimant was four hours short of compliance, per the case notes of October 11, 2010, Exhibit 6. It is likely, therefore, that Claimant's situation during the month of [REDACTED] and into the beginning of [REDACTED] was still subject to "an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities." BEM 233A.

Based on the above discussion, I find that Claimant had good cause, that is, a valid reason for noncompliance with employment and/or self-sufficiency related activities. BEM 233A.

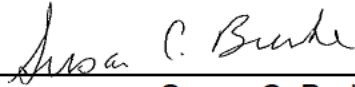
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant was in compliance with the program during the period in question. At no point did Claimant fail to participate in employment and/or self-sufficiency-related activities without good cause.

Accordingly, the Department's decision in the above-stated matter is, hereby, REVERSED. The Department is ORDERED to reinstate Claimant's FIP and FAP cases from the date of the negative action if Claimant meets all other eligibility factors.

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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:

