

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

IN THE MATTER OF:
Issue

[REDACTED]

Reg. No.: 201127138
No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: May 2, 2011
DHS County: Macomb County DHS (20)

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 May 2, 2011. Claimant appeared and testified. [REDACTED] Michigan Works JET Liaison, appeared on behalf of the Department of Human Services (Department or DHS).

ISSUE

Was the Department correct in taking negative action in Claimant's Family Independence Program (FIP) case due to noncompliance with employment and/or 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 was an ongoing FIP recipient.
2. As a recipient of FIP, 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. The Department issued a Notice of Noncompliance to Claimant on February 17, 2011, stating that Claimant did not participate in required activity on February 2, 2011 and February 3, 2011.

5. Claimant lost a child in childbirth and was treating with a psychiatrist.
6. The Department put Claimant's FIP case into closure on March 7, 2011, due to noncompliance with employment-related activities.
7. Claimant requested a hearing, 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. 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 the following: Credible information indicates 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 testified credibly that she suffered in the last several months, which suffering included a death of her child in child birth and Claimant being placed on life support. Claimant stated that she has been seeing a psychiatrist, who is treating Claimant for post-traumatic stress syndrome. Claimant admitted that she did not attend the required activity listed in the Department's Notice of Noncompliance, but she detailed that she was not able to attend due to mental health issues. I find it likely that Claimant's mental-health condition significantly interfered with employment and/or self-sufficiency-related activities. 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. Therefore, the Department was incorrect in taking negative action in Claimant's FIP and FAP cases.

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 its decision to take negative action in Claimant's FIP case, and it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department reinstate Claimant's FIP case, effective March 7, 2011, if Claimant meets all other eligibility factors. Furthermore, the Department is ORDERED to issue Claimant any missed or increased benefits in the form of a supplement.

/s/ _____
Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 12, 2011

Date Mailed: May 12, 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.

2011-27138/SCB

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/ctl

cc:

