

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201129553
Issue No.: 1038
Case No.: [REDACTED] 6
Hearing Date: May 12, 2011
DHS County: WAYNE

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 12, 2011. Claimant appeared and testified. [REDACTED] FIM and [REDACTED] FIS, appeared on behalf of the Department of Human Services (Department or DHS).

ISSUE

Is the Department correct in closing 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. Claimant was placed into triage where no good cause was found.
5. Claimant was placed into a ten-day compliance test and returned to JET.
6. During the ten-day compliance test, Claimant left JET early on two days due to a dental appointment and child day care issues.
7. The Department closed Claimant's FIP case on May 1, 2011, due to non-compliance with employment and/or work-related activities.
8. Claimant requested a hearing, protesting the closure.

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.

If at the triage the decision regarding the noncompliance is *No Good Cause*, do the following:

1. Discuss and provide a DHS-754, First Noncompliance Letter, regarding sanctions that will be imposed if the client continues to be noncompliant.
2. Offer the client the opportunity to comply with the FSSP by the due date on the DHS-754 and within the negative action period.
3. Advise the client that the instance of noncompliance will remain on record even if the client complies. The noncompliance will be excused, but not erased and could result in longer sanctions if the client is noncompliant in the future.
4. If the client **accepts** the offer to comply and agrees with the department's decision of noncompliance without good cause, use the first check box on the DHS-754 and document compliance activities. Include the number of hours of participation the client must perform to meet the compliance activity requirement. Advise the client that verification of the compliance is required by the due date on the DHS-754. BEM 233 A.

In the present case, Claimant signed the DHS 754, which states in part, "If you cannot complete the activities because of medical reasons or other problems in your life . . . call your DHS specialist immediately to report the problem." Claimant testified credibly at the hearing that she complied with the agreement set forth in the DHS 754 form, except that she left the JET program two hours early on one day for a dental appointment and an hour early on one day due to child day care issues. Claimant stated at the hearing that she received permission from the JET Career Coach to leave on both days. The JET Career Coach was not present at the hearing to dispute Claimant's testimony. Claimant also testified that she spoke to her DHS worker about the issues and the Department did not dispute Claimant's assertion. I am satisfied that Claimant complied with work-related activities, as she did have "medical reasons and other problems," i.e. day care issues that prevented her from completing the missed three hours. In addition, Claimant received permission from the JET Career Coach to leave, and Claimant did not return to the JET program until April 6, 2011, when her JET Career Coach said the Department notified him Claimant's case was closed.

Based on the above discussion, I find that Claimant complied with employment and/or work-related activities, and the Department was therefore incorrect in closing Claimant's case for failing to comply with said activities.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to close Claimant's FIP case was incorrect, and it is therefore ORDERED that the Department's decision is, REVERSED. The Department is ORDERED to reinstate Claimant's FIP benefits effective May 1, 2011, 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 in supplement form.

[REDACTED]
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: [Insert.]

Date Mailed: [Insert.]

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/hw

cc: [REDACTED]
Wayne County DHS (41)/DHS-1843

[REDACTED]
Administrative Hearings