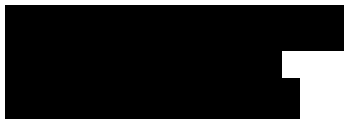


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201129799
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: May 16, 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 16, 2011. Claimant appeared and testified. [REDACTED] FIM, appeared on behalf of the Department of Human Services (Department or DHS).

ISSUE

Was 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 attended the JET program as assigned.
5. The Department alleged that the Department issued a Notice of Noncompliance, but no such notice was proffered into evidence.
6. The Department closed Claimant's FIP case effective May 1, 2011 due to noncooperation with employment services.
7. 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.

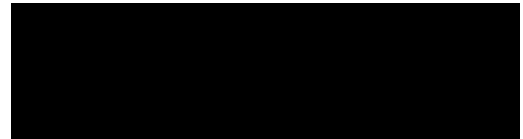
JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. **In processing a FIP closure, the Department is required to send the client a Notice of Noncompliance (DHS-2444) which must include the date(s) of the noncompliance; the reason the client was determined to be noncompliant; and the penalty duration.** (Emphasis added.) BEM 233A. In addition, a triage must be held within the negative action period. BEM 233A.

In the present case, the Department claimed to have issued a Notice of Noncompliance as required prior to closure of a FIP case, but no such Notice was proffered into

evidence by the Department. Without the Notice of Noncompliance, I cannot determine which dates Claimant was allegedly in noncompliance and how she was allegedly noncompliant. In addition, Claimant testified credibly that during the time of her attendance at Work First, she was having issues with her children that needed to be addressed. For instance, one child's school required Claimant's presence due to that child's suspension from school. Claimant testified further that she attempted to contact her Department worker without success. Based on the above discussion, I cannot find that Claimant was in 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, it is ORDERED that the Department's decision to close Claimant's FIP case is REVERSED. The Department is ORDERED to reinstate Claimant's FIP case effective May 1, 2011 and ongoing, if Claimant is otherwise eligible. Furthermore, the Department is ORDERED to issue Claimant any benefits missed as a result of the negative action in the form of a supplement.



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

Date Signed: May 25, 2011

Date Mailed: May 25, 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/ hw

cc:

[REDACTED]

Wayne County DHS (15)/ 1843

[REDACTED]

Administrative Hearings