

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-38473
Issue No. 1038
Case No. [REDACTED]
Hearing Date: July 21, 2011
Wayne County DHS (55)

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 July 21, 2011 in Detroit, Michigan. Claimant appeared and testified. [REDACTED], appeared on behalf of the Department of Human Services (Department.)

ISSUE

Was the Department correct in its decision to take negative action on 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. On April 7, 2011, the Department issued a Notice of Noncompliance, alleging that Claimant did not participate in required activity.
6. Claimant attended a triage in which no good cause was found.
7. The Department took negative action to close Claimant's FIP case effective June 1, 2011, due to noncompliance with employment-related activities.
8. On May 16, 2011, Claimant requested a hearing 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 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.

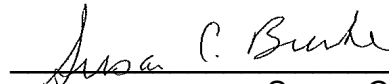
In the present case, the Department alleged that Claimant was not in compliance with the JET program on March 21, 2011 by not participating in required activity. However, other than the Notice of Noncompliance, the Department presented no evidence as to what the required activity was. The worker who issued the Notice has since retired and Claimant testified at the hearing that she did not know anything about the alleged missed March activity. Claimant stated that at the time the Work First Worker was advocating for Claimant to be returned to Work First. It is noted that no one from the Work First program testified at the hearing. Without further proof as to Claimant's alleged noncompliance, I am not persuaded that Claimant was in fact noncompliant with work-related activities, and I therefore find that the Department's decision to close Claimant's FIP case was not correct.

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 not correct, and it is therefore ORDERED that the Department's decision is hereby REVERSED.

It is further ORDERED:

- 1.) The Department shall reinstate Claimant's FIP case if it has been closed.
- 2.) The Department shall issue a supplement for any missed benefits.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan Director
Department of Human Services

Date Signed: July 26, 2011

Date Mailed: July 26, 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

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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.

SB/cl

cc:

