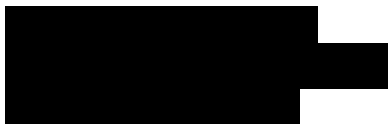


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201144618
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 18, 2011
Wayne County DHS (49)

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 August 18, 2011 in Detroit, Michigan. Claimant appeared and testified. [REDACTED], JET Manager, appeared on behalf of the Department of Human Services (Department.)

ISSUE

Was the Department correct in its decision to close Claimant's Family Independence Program (FIP) case due to failure to comply with work-related activities?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing FIP recipient.
2. Claimant had not attended the Jobs Education and Training (JET) program since 2008.
3. On March 29, 2011, the Department issued a JET Appointment Notice to Claimant for an appointment date of April 11, 2011.
4. Claimant did not receive the JET Appointment Notice and did not attend the appointment of April 11, 2011.

5. The Department issued a Notice of Noncompliance to Claimant indicating a noncompliance date of April 11, 2011, and thereafter held a triage, finding no good cause.
6. The Department closed Claimant's FIP case on or about, July 13, 2011 due to noncompliance with work-related activities.
7. Claimant requested a hearing on July 21, 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.

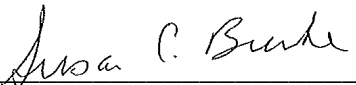
In the present case, Claimant testified credibly that she did not attend the JET appointment of April 11, 2011 because she did not receive the Notice of JET Appointment. The Department witness explained that although Claimant had been receiving FIP since at least 2008, the Department determined that Claimant should

attend JET and issued the appointment notice. In addition, Claimant underwent a change of DHS worker, as her previous worker had retired. It appears that Claimant was not expecting such a notice, did not look for it, and did not see it. Claimant testified credibly at the hearing that had she received and seen the notice, she would have attended the appointment. Based on the above discussion I find that Claimant did not refuse to comply with work-related activities, and furthermore, she had good cause to miss the work-related appointment, as she was unaware of the appointment. The Department was therefore not correct in its decision to close Claimant's FIP case.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law decides that the Department was not correct in its decision to close Claimant's FIP case. It is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall:

1. Remove the negative action taken on Claimant's FIP case on or about July 13, 2011.
2. Initiate reinstatement Claimant's FIP case, effective the date of closure, on or about July 13, 2011, if Claimant is otherwise eligible.
3. Initiate restoration of Claimant's FAP benefits, if any, that were decreased due to the FIP case closure as of the date of the FIP closure, on or about July 13, 2011.
4. Issue supplements for any missed or increased FIP or FAP payments from July 13, 2011 and ongoing.



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

Date Signed: August 24, 2011

Date Mailed: August 24, 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.

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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/hw

cc:

