

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201148801
Issue No.: 1038; 3029
Case No.: [REDACTED]
Hearing Date: September 26, 2011
Wayne County DHS

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 September 26, 2011 from Detroit, Michigan. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED], FIS Worker.

ISSUE

Was the Department correct in its decision to close Claimant's Family Independence Program (FIP) case and to impose a negative sanction on Claimant's FIP case due to failure to participate in 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. The Department assigned Claimant to the Jobs Education and Training (JET) program, Monday through Friday.
3. Claimant did not attend the JET program since the week of July 3, 2011 and through July 25, 2011.
4. Claimant took her son to a medical appointment, which included immunizations, on July 13, 2011.

5. Claimant was pregnant and nauseous during some of the period in question.
6. The Department issued a Notice of Noncompliance to Claimant on July 26, 2011, and thereafter held a triage without Claimant being present, finding no good cause.
7. The Department closed Claimant's FIP case effective September 1, 2011 due to Claimant failing to participate in work-related activities, and imposed a sanction of three months.
8. Claimant requested a hearing on August 9, 2011, 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.

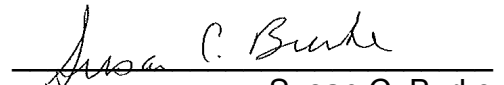
The Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 230A; BEM 233A. All Work Eligible Individuals (WEIs) are required to participate in the development of a Family Self-Sufficiency Plan (FSSP) unless good cause 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 and the Department representative agreed that Claimant was required to attend the JET program five days per week. Claimant could not substantiate that she attended the JET program for the weeks of July 10, 2011, July 17, 2011 and the day of July 25, 2011. The only clear good-cause exception for Claimant not attending the JET program was a visit to the doctor for Claimant's son on July 13, 2011 for her son's immunizations. Claimant testified that she was nauseated due to her pregnancy so she did not attend on some days during the time frame of absences from the JET program, but she did not offer proof as to specific days of illness. Claimant also stated that she attended JET computer classes, but she had no written proof or otherwise to substantiate that she attended the Jet computer classes during the weeks of July 10, 2011, July 17, 2011 and the day of July 25, 2011. Based on the above discussion I find that Claimant failed to comply with work-related activities and that the Department was therefore correct in its decision to impose a sanction on Claimant's FIP case and 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 correct in its decision to impose a negative sanction on Claimant's FIP case and to close Claimant's FIP case. It is therefore ORDERED that the Department's decision is AFFIRMED.



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

Date Signed: 9/30/11

Date Mailed: 9/30/11

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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/sm

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