

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-5309
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 9, 2010
DHS County: Wayne (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 December 9, 2010. Claimant appeared and testified. [REDACTED] [REDACTED], appeared on behalf of the Department of Human Services (Department or DHS).

ISSUE

Did the Department correctly impose a negative Family Independence Program (FIP) case action and three-month sanction upon Claimant for 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 FIP recipient.
2. As an FIP recipient, 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 May 29, 2010, Claimant's mother was diagnosed with cancer.

6. On [REDACTED], Claimant's mother died.
7. Claimant failed to attend JET on June 17, 2010.
8. On August 11, 2010, the Department issued a Notice of Noncompliance due to no participation in required activity, with the date of noncompliance of June 17, 2010.
9. A conference/triage was scheduled for August 24, 2010.
10. Claimant did not attend the triage.
11. On August 24, 2010, the Department imposed a negative case action and three-month sanction upon Claimant's FIP case due to noncompliance with employment-related activities.
12. On October 11, 2010, 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.

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.

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. Good cause includes the following: credible information which indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. BEM 233A.

In the present case, Claimant credibly testified that her mother was diagnosed with colon cancer on May 29, 2010, and that her mother died on [REDACTED]. The date of noncompliance as listed in the Notice of Noncompliance (DHS-2444) was June 17, 2010. Claimant credibly testified that she assisted her mother from the date of diagnosis to the date of her death. I am satisfied that Claimant was subjected to “an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities.” BEM 233A.

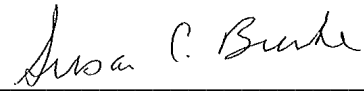
Based on the above discussion, I find that Claimant had good cause, that is, a valid reason for noncompliance with employment and/or self-sufficiency-related activities. BEM 233A.

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.

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Accordingly, the Department's decision in the above-stated matter is, hereby, REVERSED. The Department is ORDERED to reinstate Claimant's FIP benefits as of October 1, 2010, 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.



Susan C. Burke
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 15, 2010

Date Mailed: December 20, 2010

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/pf

cc:

