

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.: 2011-9505  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: January 6, 2011  
DHS County: Wayne (82-76)

**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 January 6, 2011. Claimant appeared and testified. [REDACTED] and [REDACTED] testified on behalf of the Department of Human Services (Department).

**ISSUE**

Was the Department correct in closing Claimant's Family Independence Program (FIP) benefits case due to noncompliance with employment-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 a Family Independence Program benefits recipient.
2. As a condition for eligibility in this program, Claimant was a mandatory participant in employment-related activities.
3. Claimant was assigned to the Jobs, Education and Training (JET/Work 1<sup>st</sup>) program as part of employment-related activities.
4. Claimant was assigned to attend JET on August 20, 2010.
5. Claimant did not attend JET on August 20, 2010.

6. On November 3, 2010, the Department sent Claimant a notice of noncompliance with JET requirements and scheduled a triage for November 18, 2010.
7. Claimant did not attend the triage.
8. The Department put Claimant's FIP case into negative action on November 19, 2010.
9. On December 1, 2010, the Department closed Claimant's FIP case.
10. Claimant requested a hearing contesting 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 FIP 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 (PRM).

The Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. 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 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 noncompliance result in a 3-month FIP closure. BEM 233A. The third occurrence results in a 12-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. A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A.

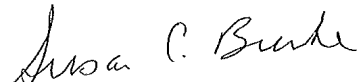
In the present case, the Department issued a notice of noncompliance on November 3, 2010, indicating that Claimant did not participate in the required activity on August 20, 2010. The Case Notes indicate that Claimant called in sick often and was no longer employed with the assigned employer. The Department scheduled a triage, which Claimant did not attend. At the hearing, Claimant testified credibly that, although she did miss work, she was sick and she did notify her employer of her illness. Specifically, Claimant detailed that she called her employer when her illness was threatening a miscarriage and once again when she was unable to work due to illness. Claimant also detailed that she called her worker several times but the worker never returned her phone calls.

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

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 December 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.



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

Date Signed: January 11, 2011

Date Mailed: January 18, 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

2011-9505/SCB

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:

