STATE OF MICHIGAN

MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 2012-29475

Issue No. 1038

Case No.

Hearing Date: March 7, 2012 County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Ad ministrative Law Judge upon Claimant's request for a hearing made purs uant to MCL 400.9 and MCL 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was held on March 7, 2012, from Detroit, Mi chigan. Participants on behalf of Claimant included Claimant and Participants on behalf of Department of Human Services (Department) included

<u>ISSUE</u>

Whether the Department properly closed Cla imant's case for benefits under the Family Independence Program (FIP) based on Claimant's failure to participate in e mployment-related activities.

FINDINGS OF FACT

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

- 1. Claimant was an ongoing recipient of FIP benefits and was required to participate in employment-related activities.
- The Department did not send Claimant a Notice of Noncompliance.
- On January 3, 2012, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective F ebruary 1, 2012, based on a failure to participate in employment-related activities without good cause.

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4. On January 17, 2012, Claimant Department's action.

requested a hearing disputing the

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and W ork Opportunity Reconc iliation Act of 1996, Public Law 104-193, 42 USC 601, et seq. The Department (formerly k nown as the Family Independence Agency) administers FIP pursuant to MCL 400.10, et seq., and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

In order to increase their employ ability and obtain employment, work eligible individuals (WEI) seeking FIP are required to participat e in the JET Program or other employmentrelated activity unless temporarily defe rred or engaged in activities that meet participation requirements. BEM 230A; BEM 233A. Failing or refusing to attend or participate in a JET program or other employment service provider without good caus e constitutes a noncompliance with employment or self-sufficient related activities. BEM 233A. Good cause is a valid reason for nonc ompliance which is beyond the control of the noncompliant per son. BEM 233A. JET participants will not be terminated from a JET program without the Departm ent first scheduling a triage m eeting with the client to jointly disc uss noncompliance and good c ause. BEM 233A. Good cause must be based on the best information available at the triage and must be considered even if the client does not attend the triage. BEM 2 33A. 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.

Follow the procedures outlined below for processing the FIP closure:

- Send a DHS-2444, Notice of Employment and/or Self-Sufficiency-Related Noncompliance, within five business days after learning of the noncompliance. You must include the following information on the DHS-2444:
- •• The date of the initial noncompliance.
- •• All the dates, if addressing more than one incident of noncompliance.
- •• The reason the client was determined to be noncompliant.
- The penalty that will be imposed.
- •• Schedule a triage to be held within the negative action period.
- Determine good cause during triage and prior to the negative

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action effective date. Good cause must be verified and can be based on information already on file with the DHS or the work participation program. Document the good cause determination on the sanction detail screen. 233A p. 8, 9

In the present case, the Department origi inally held a triage, found good cause, and placed Claimant back into Work First However, the Department subsequently closed

Claimant's FIP case due to failur e to partici pate in work-related activities without first sending a Notice of Noncompliance as required by policy.
Based upon the abov e Findings of Fact and Co nclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly closed Claimant's FIP case.
DECISION AND ORDER
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly.
Accordingly, the Department's decision is \square AFFIRMED \boxtimes REVERSED for the reasons stated on the record.
□ THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF

THE DATE OF MAILING OF THIS DECISION AND ORDER:

- 1. Remove the sanction from Claimant's FIP case.
- 2. Initiate reinstatemeth of Claimant's FIP case, effective February 1, 2012, if Claimant is otherwise eligible for FIP.
- 3. Issue FIP s upplements in accordance with Department policy, February 1, 2012 and ongoing.

Susan C. Burke

Susan C. Burke

Administrative Law Judge

For Maura Corrigan, Director

Department of Human Services

Date Signed: <u>3/12/12</u>

Date Mailed: 3/12/12

NOTICE: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order. MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative hearings

Re __consideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

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