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

IN THE MATTER OF:



Reg. No.2Issue No.1Case No.1Hearing Date:CCounty:V

2012-69792 1038 October 15, 2012 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 October 15, 2012, from Detroit, Mich igan. Participants on behalf of Claimant included Claimant. Participant s on behalf of Department of Human Services FIS Worker, and FIS W

ISSUE

Whether the Department properly denied Claimant's application for benefits under the Family Independence Program (FIP) based on Cl aimant's failure to participate in employment-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.
- 2. On June 14, 2012, the Department iss ued to Claimant a Work Participation Appointment Notice for July 30, 2012.
- 3. Claimant attended the July 30, 2012 appointment, but was sent home by the JET work er upon Claimant's presentation of cu rrent medical need s information.

- 4. On July 31, 2012, the Department s ent Claimant a Notice of Case Action closing Claimant's FIP case, effective March 16, 2012, based on a failure to verify information.
- 5. On August 7, 2012, Claimant requested a hearing disputing the Department's action.

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.

The program is implemented by Title 45 of the Code of Fede ral Regulations, Parts 98 and 99. The Depart ment provides servic es to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

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 servic e provider without good cause 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 discuss noncompliance and good cause. 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 233A. In pr ocessing a FIP closure, the Department is required to send the client a Notice of Noncompliance (DHS-2444) which must include noncompliance, the r eason the client was determined to be the date(s) of the noncompliant, and the penalty duration. BEM 233A.

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In the present case, the Department issued a Work Participation Program Appointment Notice (Exhibit 4) setting an appointment for Claim ant for July 30, 2012. Claimant testified credibly that she attended the appointment, but she was sent home by the JET worker, upon Claimant's presentation of current medical documentation. It is logic al to conclude that Claimant did as she was inst ructed by the JET worker on July 30, 2012, and therefore she did not refuse or fail to participate in employment activities as alleged by the Department.

It is noted that the Depar tment framed the denia 1 of Claimant's FIP case based on failure to p articipate in work-rela ted activities, but the Notice of Case Actio n indicates failure a denial due to failure to verify information. The Depar tment representative conceded at the hearing that the correct reason for denial could have been manually placed in the Notice of Ca se Action. Per BAM 600, the Department did not giv e sufficient notice to Claimant:

The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

- The action being taken by the department.
- The reason(s) for the action.

• The **specific manual item(s)** that cites the legal base for an action, or the regulation, or law itself; see BAM 220.

BAM 600, p. 1.

Based upon the abov e Findings of Fact and Conclus ions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly c losed Claimant's FIP case. improperly denied Claimant 's FIP application.

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 i did act properly. i did not 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:

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- 1. Remove the sanction, if any, from Claimant's case.
- 2. Initiate reprocessing of Claimant's FIP application, effective February 29, 2012.
- 3. Issue FIP supplements for any missed payments, in accordance with Department policy, if Claimant is found to be otherwise eligible for FIP.

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

Date Signed: October 19, 2012

Date Mailed: October 19, 2012

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 or der 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 ti mely 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.

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

SCB/ctl

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