

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

IN THE MATTER OF:



Reg. No. 2013-22949
Issue No. 1038
Case No. [REDACTED]
Hearing Date: February 20, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant 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 February 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department properly closed Claimant's case for benefits under the Family Independence Program (FIP) based on Claimant's failure to participate in employment-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 recipient of FIP and was required to participate in employment-related activities.
2. On December 15, 2012, the Department sent Claimant a Notice of Noncompliance informing Claimant of a failure to participate in employment-related activities and setting a triage date of December 26, 2012.
3. On December 15, 2012, the Department sent Claimant a Notice of Case Action closing Claimant's FIP, effective January 1, 2013, due to failure to participate in employment-related activities without good cause.

4. Claimant had good cause to not to participate in work-related activities due to his illness.
5. On January 3, 2013, Claimant filed a hearing request 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 Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known 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 employability and obtain employment, work eligible individuals (WEI) seeking FIP are required to participate in the JET Program or other employment-related activity unless temporarily deferred 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 cause constitutes a noncompliance with employment or self-sufficient related activities. BEM 233A. Good cause is a valid reason for noncompliance which is beyond the control of the noncompliant person. BEM 233A. JET participants will not be terminated from a JET program without the Department first scheduling a triage meeting 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 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 the present case the December 8, 2012 Notice of Case Action closing Claimant's FIP case was issued prior to the issuance of the Notice of Noncompliance and prior to the triage of December 18, 2012. BAM 220 instructs:

A notice of case action must specify the following:

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

- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

The Notice of Case Action was issued for the reason that Claimant failed to comply with employment-related activities without good cause, yet that conclusion could not have been properly reached prior to the triage to determine good cause, which triage allegedly occurred after the Notice of Case Action was issued. It is noted that the Department did not clarify if a triage was in fact held, even in the absence of Claimant, as required by BEM 233A.

Although I find the above-described occurrence of events to be a likely violation of Claimant's due process, I will nevertheless further determine whether Claimant had good cause to not participate in work-related activities.

I find that Claimant had good cause to not participate in work-related activities, as he testified credibly that he suffered from asthma and high blood pressure at the time of the alleged-noncompliance, preventing him from functioning in a work environment. The Department representative at the hearing testified that Claimant's medical documents were submitted to the Medical Review Team (MRT), but no MRT determination was submitted into evidence which stated that Claimant was able to work despite his limitations.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly closed Claimant's FIP case. improperly closed Claimant's FIP case.

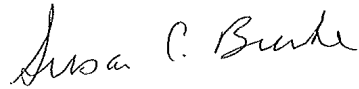
DECISION AND ORDER

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. did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT SHALL INITIATE WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER, THE FOLLOWING:

1. Remove the sanction from Claimant's case.
2. Initiate reinstatement of Claimant's FIP case, effective January 1, 2013, if Claimant is otherwise eligible for FIP.
3. Issue FIP supplements, in accordance with Department policy.



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

Date Signed: February 20, 2013

Date Mailed: February 21, 2013

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)

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 of the rehearing decision.

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

- A rehearing **MAY** 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.

2013-22949/SB

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

SCB/tm

cc:

