

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.: 2010-44677
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 18, 2010
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on August 18, 2010. The claimant appeared and testified. [REDACTED], FIM and [REDACTED] FIS appeared on behalf of the Department.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and three month sanction upon the claimant for noncompliance with 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 a FIP recipient in Wayne County.
2. As a condition of Eligibility in the FIP program, claimant is a mandatory participant in employment related activities.
3. Claimant was assigned to the Jobs, Education and Training (JET, also known as Work 1st).
4. Claimant was required to attend the Work First but did not do so.
5. The claimant was the recipient of family assistance (cash benefits).

6. The claimant's was assigned to Work First and was triaged for failure to attend the Work First program on March 30, 2010. The claimant was ordered to return to work first and to provide the Department verification of her employment. Exhibit 1
7. At the original triage on March 30, 2010 which the Claimant attended, the claimant was not subject to any sanction as it was her first non compliance and the Claimant was given a pass from receiving a sanction. Exhibit 1 and Exhibit 2
8. The claimant was given a verification of employment form at the triage which required her to return the information to the department on or before April 9, 2010. Exhibits 3 and 4.
9. The claimant testified that she provided the requested verification of employment and check stubs by having her employer fax the information to the department.
10. The department did not receive the verification of employment from the claimant nor did it receive copies of check stubs. On June 15, 2010 the claimant was again scheduled for a triage because she had not participated in the job program as required by the first triage and had not provided the requested verifications of employment. The Claimant attended the second triage. Exhibit 5
11. As a result of the second triage the Claimant's FIP case was closed and the Claimant's benefits were sanctioned for a 90 day period after a triage was held and a good cause determination was made finding the Claimant did not demonstrate good cause. Exhibit 5
12. The 90 day sanction period began August 1, 2010.
13. Attendance records from the work first program indicate that the claimant did not attend work first on and after January 10, 2010. Exhibit 2
14. The claimant began work in February 2010 and did not report her change and employment status to the Department.
15. The claimant's employment ended at the end of April 2010.
16. The claimant did not provide the department with the requested employment verifications or check stubs, nor did she bring proof of the employment to the hearing.

17. The department accidentally and inadvertently closed the claimant's FIP case on August 1, 2010 which was in error as the claimant had opted to continue to receive her benefits during the pendency of the hearing request.
18. The claimant's testimony with regard to her residence was contradictory and confusing.
19. The claimant filed a State Emergency Relief application on April 28, 2010.
20. The claimant's caseworker attended both triage meetings and indicated that the claimant gave no good cause reasons for her initial failure to participate in the Work First program and that she never received the verification of employment or pay stubs.
21. The Department properly imposed the 90 day sanction as it was the Claimant's second finding of non compliance with the JET program.
22. The Department closed the Claimant's FIP benefits on August 1, 2010.
23. On July 19 2010 the Claimant filed a request for a hearing which was received July 20, 2010 by the Department protesting the Department's closure of the Claimant's FIP case.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full time must be referred to the Jobs, Education and Training (JET) Program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-

sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called “noncompliance”. BEM 233A defines noncompliance as failing or refusing to, without good cause:

...Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider...” BEM 233A p. 1

However, a failure to participate can be overcome if the client has good cause. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the claimant. BEM 233A. The penalty for noncompliance is FIP closure. However, for the first occurrence of noncompliance on the FIP case, the client can be excused. BEM 233A.

Furthermore, JET participants cannot be terminated from a JET program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. If a client calls to reschedule, a phone triage should be attempted to be held immediately, if at all possible. If it is not possible, the triage should be rescheduled as quickly as possible, within the negative action period. At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. BEM 233A.

If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

Before the Administrative Law Judge can review a proper good cause determination, there must first be a determination of whether the claimant was actually non-participatory with the requirements for the JET program. The evidence submitted by the Department, clearly demonstrated non compliance as the Claimant failed to attend work first and also failed to verify her employment as agreed to after the first triage which she attended. It does appear that the Department’s finding of no good cause was correct as no evidence was presented indicating the Claimant otherwise complied with the verification request excusing the Claimant’s non attendance or otherwise supporting a finding of good cause was presented.

In Determining whether good cause has been demonstrated for non compliance with a JET requirement the standard to be applied is provided in BEM 233A page 3:

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. A claim of good cause must be verified and documented for member adds and recipients.

The Claimant's failure to attend and then failure to provide verification as requested and then once again at the second triage failure to comply with the requirements of the first triage after several months had passed does not demonstrate good cause by the Claimant. Nor did the Claimant provide the requested verification at the hearing.

After a careful examination of the documentary evidence provided by the Department, the Administrative Law Judge has determined that the Department has met its burden of proof in and is correct in its finding that the claimant failed to participate with JET activities as required and did not demonstrate good cause why she did not comply with her assigned JET requirements. Accordingly the Department properly closed the Claimant's FIP case for three months for non compliance with the Work First program effective August 1, 2010 .BAM 233A page 6.

Therefore, the undersigned must rule that the Department's finding of no good cause and the imposition of a three month sanction, closing the Claimant's FIP case as required by BEM 233A, is correct.

It is also noted that the Department inadvertently closed the Claimant's case even though she had requested to receive benefits during the pendency of her hearing request, however, in light of this ruling upholding the Department's actions the Claimant would not be entitled to receive the requested benefits and might possibly have result in an over issuance of benefits that the Claimant is not entitled to receive.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the claimant was not in compliance with the JET program and that the Department's finding of no good cause, for failure to participate in the JET activities is correct.

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Accordingly, the Department's determination finding the claimant in non compliance with the Work First program requirements and that no good cause was established at the triage is upheld and the closure of the Claimant's FIP case for three months is AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 8/24/2010

Date Mailed: 8/24/2010

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 60 days of the filing of the original request.

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.

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