

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No.: 2010-24729
Issue No.: 1038, 3029
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 25, 2010
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 and Claimant's request for hearing. After due notice, a conference and telephone hearing were conducted from Detroit, Michigan, on May 24 and May 25, 2010. Claimant appeared and testified. [REDACTED], testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant was in violation of the participation requirements of the Work First program?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material and substantial evidence in the record and on the entire record as a whole, makes the following findings of fact:

1. In 2009, Claimant was an active Food Assistance Program (FAP) and Family Independence Program (FIP) recipient who participated in the Jobs, Employment and Training (JET) Work First program.
2. On May 27, 2009, Work First requested a triage meeting due to Claimant's lack of participation.
3. On August 28, 2009, Work First scheduled a triage for September 1, 2009.
4. On September 1, 2009, Work First reported a triage outcome of a 90-day sanction due to Claimant's noncompliance.
5. There was no documentation of the alleged noncompliance, Notice of Noncompliance, Good Cause Determination, or Triage Outcome Form presented at the hearing.
6. The sole Work First agency documentation presented at the hearing was the Work First casenotes, which is a two-page computer chart showing the activity dates, the program name, the subject matter, comments, and staff names and locations.
7. On October 1, 2009, Claimant's FIP benefits were discontinued for ninety (90) days, through December 31, 2009 (three months).
8. On November 1, 2009, Claimant's FAP benefits were reduced from \$494 to \$181 for 150 days (five months), through March 31, 2010.
9. Claimant presented a written request to DHS for a hearing regarding the triage decision and sanctions, and the caseworker at that time did not permit it to be processed.
10. On February 24, 2010 Claimant submitted a written hearing request to DHS.

CONCLUSIONS OF LAW

FAP was established by the Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations (CFR). DHS administers FAP

pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. DHS' FAP policies are also found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). All three manuals are available online at www.mich.gov.

FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* DHS administers the FIP program pursuant to Michigan Compiled Laws 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3101-3131. DHS' FIP policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). www.mich.gov.

Federal and State law require each work-eligible individual in FIP to participate in the JET Program or other employment-related activities unless the person is temporarily deferred or engaged in other activities that meet participation requirements. BEM 230A. All work-eligible individuals who fail without good cause to participate in employment or self-sufficiency-related activities will be penalized. BEM 233A. Failure to appear at a JET program results in noncompliance. *Id.*

Good cause is defined as a valid reason for noncompliance with employment and/or self-sufficiency-related activities, based on factors that are beyond the control of the noncompliant person. BEM 233A, p. 4. Good cause includes being physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. It also includes having an immediate family member with an illness or injury that requires in-home care by the client. *Id.* The penalty for noncompliance without good cause is FIP closure. *Id.* at 6. If good cause is established, the negative action is deleted. *Id.* at 12.

The only evidence brought to the hearing by DHS was the Work First staff casenotes. I conclude that there is no testimony or evidence in this case, such as logs, sign-in sheets, attendance records, etc., documenting Claimant's participation or nonparticipation in Work First. I have no specific information as to the allegations made, whether Work First had proof of its allegations, and, if so, whether Claimant had good cause not to participate in Work First. No Work First witness appeared at the hearing before me.

I conclude that the Work First casenotes are very general in nature, and they are not actual evidence of noncompliance or lack of good cause. Also, Claimant gave credible and unrebutted testimony that she presented a Notice of Hearing regarding the Work First sanction to DHS at the time, but her former caseworker did not permit it to be processed. I believe Claimant on this point, as certain first-time Work First violations cannot be protested and it is very possible Claimant was denied a hearing. I accept her testimony and find it as fact, and I include the Work First compliance issue as a subject in the present hearing.

I conclude that the record is insufficient to establish that Claimant was in violation of the Work First requirements, and I determine that the five-month FAP and three-month FIP sanctions are in error and shall be deleted. I conclude that, because Claimant complied with the Work First program, her FAP and FIP benefits must be reimbursed to her in accordance with DHS policies and procedures. Based upon the foregoing facts and relevant law, it is found that the Department's negative action is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, REVERSES DHS' determination that Claimant was not in compliance with the Work First

program, and REVERSES DHS' imposition of a five-month FAP and a three-month FIP penalty to Claimant.

Accordingly, it is ORDERED:

1. The September 1, 2009, Work First noncompliance violation and the 90-day sanction are hereby rescinded.
2. DHS shall not charge Claimant with a first-time Work First violation with regard to the triage of September 1, 2009.
3. DHS shall delete the FAP and FIP penalties previously imposed.
4. DHS shall supplement the Claimant with any and all lost FAP and FIP benefits she was otherwise entitled to receive.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 1, 2010

Date Mailed: June 3, 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 date of the rehearing decision.

JL/pf

cc:

