STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

        Claimant

Reg. No.: 2010-30345
Issue No.: 1038
Case No.:
Load No.:
Hearing Date:
June 3, 2010
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Detroit, Michigan on Thursday, June 3, 2010. The Claimant appeared and testified. ████ ████, ████████, and ████████████ appeared on behalf of the Department.

ISSUE

Whether the Claimant established good cause for his failure to appear for the March 23, 2010 scheduled triage?

FINDINGS OF FACT

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

1.   The Claimant is a FIP recipient.

2.   In November 2009, the Jobs, Education, and Training ("JET") program referred the Claimant's case to triage due to noncompliance.

3.   On March 17, 2010, the Department sent the Claimant a Notice of Noncompliance instructing him to appear on March 23, 2010 for triage.

4.   The Claimant failed to appear.

5.   As a result, the Claimant's FIP benefits were scheduled for closure.

6.   On March 30, 2010, the Department received the Claimant's timely written request for hearing.

<div align="center">CONCLUSIONS OF LAW</div>

The Family Independence Program ("FIP") was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services ("DHS" or "Department"), formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A All Work Eligible Individuals ("WEI") are required to participate in the development of FSSP unless good cause exists. BEM 228 As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. BEM 233A The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program ("JET") or other employment service provider. BEM 233A 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. BEM 233A Failure to comply without good cause results in FIP

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closure. BEM 233A The first and second occurrences of noncompliance results in a 3 month FIP closure. BEM 233A The third occurrence results in a 12 month sanction.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A In addition, a triage must be held within the negative action period. BEM 233A A good cause determination is made during the hearing and prior to the negative action effective date. BEM 233A

In the record presented, the JET program referred the Claimant's case for triage due to alleged noncompliance. A notice of noncompliance was sent to the Claimant instructing him to appear for the March 23, 2010 triage. The Claimant testified that he contacted the department by leaving a voicemail message requesting to reschedule the triage. The Claimant maintained that he did not have anyone to care for his minor child (who had recently fractured his ankle) nor did he have transportation to the appointment. The Department's records did not document receipt of the Claimant's telephone message. In addition, the Claimant asserts that he has good cause for the reported JET noncompliance. In light of the foregoing, it is found that the Department established that it acted in accordance with department policy when it terminated the Claimant's FIP case for failing to attend the triage however the Claimant established good cause for failing to the attend. Accordingly, the termination of FIP benefits is not upheld.

<u>DECISION AND ORDER</u>

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the termination of FIP benefits is not upheld.

Accordingly, it is ORDERED:

1. The Department's termination of the Claimant's FIP benefits is not upheld.

2. The 3-month FIP sanction is not imposed.

3. The Department shall reinstate the Claimant's FIP benefits from the closure date and supplement the Claimant for any lost benefits he was entitled to receive (if any) if otherwise eligible and qualified.

4. The Department shall schedule a triage regarding the alleged JET non-compliance within 30 days in accordance with department policy.

Colleen M. Mamelka

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Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/08/2010

Date Mailed: 06/08/2010

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.

CMM/cp

cc: