

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 33419
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 1, 2010
Wayne County DHS

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 1, 2010. The Claimant appeared and testified. Titchi Rosen, FIM and Gloria Grigsby, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action closing the Claimant's FIP case and imposing a three month sanction for non compliance with the Work First Program requirements.

FINDINGS OF FACT

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

1. The Claimant was a FIP and FAP recipient.
2. The Claimant attended and successfully completed the Work First orientation on January 15, 2010 and then did not attend Work First again.

3. The Claimant was sent a Notice of Non Compliance and was scheduled for a triage on March 1, 2010. Exhibit 3
4. This was the Claimant's first non compliance with the Work First program.
5. The DHS worker, assigned to attend the triage, did not appear for the first triage due to miscommunication and the triage was rescheduled for March 26, 2010.
Exhibit 2
6. The Claimant received both Notices of Non Compliances and triage meeting dates and times. Exhibits 2 and 3
7. A second triage was scheduled and held on March 26, 2010, which the Claimant did not attend.
8. At the rescheduled triage, the Claimant was found non compliant as there was no evidence of good cause. The Claimant's FIP case was scheduled for closure for three months and FAP benefits were reduced for six months. Exhibit 6
9. The Claimant testified that he did not attend the second triage because on March 16, 2010 he had been assigned a new worker and was confused. Claimant's
Exhibit 1
10. The Claimant called his old worker to inquire about the triage and did not hear back.
11. The Claimant did not call his new worker.
12. The Claimant said that he left town to try and find work after he finished the Work First orientation.
13. The Claimant also said there was some confusion about his Work First attendance due to his disability and that his doctor said he could only do light duty.
14. The Claimant did not have a doctor's note indicating his disability

15. A Notice of Case Action was sent to the Claimant on 4/1/10 which closed the FIP case on 5/1/10 through 7/31/10, a three month period. FAP benefits were decreased from 5/1/10 through 10/31/10, a six month period. Exhibit 7
16. The Claimant requested a hearing on April 19, 2010, which was received by the Department on April 29, 2010.

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT).

Federal and State laws require each work eligible individual in a FIP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in 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.

The Food Assistance Program, 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 (“DHS”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental

policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Bridges Program Reference Manual (“PRM”).

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.

In the current case, the Claimant did not attend the rescheduled triage and did not present a good reason for not doing so. The Notice of Non Compliance clearly advises the sanctions that may be imposed if the triage is held and good cause is not demonstrated for non compliance. The form is clear and its import is that if you don’t show up and demonstrate good cause you lose your benefits. Likewise, the letter advising the claimant that he was assigned a new worker is not an excuse not to attend the triage. Given the fact that the Claimant received the notice,

there is no basis for review of the triage outcome as the Claimant admitted he did not attend Work First and did not present evidence of good cause for his non compliance. Further, it appears the claimant did not act reasonably in not attending the triage.

As regards the claimant's reasons for not attending the Work First program, reviewing the facts as presented by the Claimant I do not find good cause was demonstrated by the Claimant. The Claimant suggested he was disabled but did not provide proof of his light duty status. He also suggested he was out of state looking for work. The Claimant's testimony in this regard was not compelling, was not supported in the JET case notes, and did not establish good cause, as the details of his reasons for non attendance were significantly lacking, suggesting the claimant's testimony was lacking in credibility.

In the current case, the evidence provided to prove the underlying case—that claimant had failed to attend JET—was sufficient. Therefore, the undersigned must rule that the 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.

A further review of the case file, however, indicates that the Claimant FAP was decreased as a result of his non compliance with Work First for a period of six months. The notice of Case Action issued by the Department states the FAP is decreased from 5/1/10 to 10/31/10, this is incorrect. B 233B requires that FAP be closed for one month for the first occurrence of Work First non compliance, not six months. BEM 233B, page 4. The Department's actions, in this regard, are incorrect and therefore must be reversed.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is **AFFIRMED** with regard to the closure of the Claimant's FIP case for non compliance with the Work First Program requirement. The Department's determination is

REVERSED with regard to the closure of the Claimant's FAP benefits for six months, as it is in error and not in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination is not upheld and is REVERSED IN PART.

Accordingly, it is ORDERED:

1. The Department's negative action closing the Claimant's FIP case on May 1, 2010 is affirmed. The three month sanction imposed on the claimant for non compliance with the Work First program, shall be and is, UPHELD and AFFIRMED.
2. The Department's negative action reducing the Claimant's FAP benefits for a six month period is REVERSED, and it is ordered that the Department shall reduce the FAP benefits for one month only, from May 1, 2010 through May 31, 2010. The Department shall also be required to supplement the Claimant's FAP benefits, if necessary, for any benefits he is otherwise entitled to receive from and after May 1, 2010.



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

Date Signed: 06/22/10

Date Mailed: 06/23/10

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

LMF/dj

cc:

