

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 2010-16315
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: June 30, 2010
Wayne County DHS (58)

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 on Wednesday, June 30, 2010. The Claimant appeared and testified. [REDACTED], [REDACTED], and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits after the Claimant was late for a 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. On or about December 18, 2009, the Jobs, Education, and Training ("JET") program referred the Claimant's case to triage due to non-compliance.
3. On January 7, 2010, the Department sent the Claimant a Notice of Noncompliance instructing her to appear on January 13, 2010 at 1:15p.m. for a triage. (Exhibit 1)

4. On this same date, January 7th, the Department sent an Appointment Notice to the Claimant instructing her to appear on January 13, 2010 at 1:00p.m.
5. The Claimant arrived at approximately 1:43p.m., on January 13, 2010. (Exhibit 3)
6. The Department did not hold the triage or reschedule it.
7. On this same date, January 13th, the Department received the Claimant's written request for hearing.
8. The negative action was not deleted and the Claimant's FIP benefits terminated effective February 1, 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 ("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 closure. BEM 233A The first and second occurrences of non-compliance 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 this case, the JET program referred the Claimant's case for triage due to non-compliance. The Department sent the Notice of Non-compliance instructing the Claimant to appear on January 13th at 1:15p.m., for a triage. The Notice did not provide the dates of non-compliance as required by policy. Along with the triage notice, the Department sent an Appointment Notice to the Claimant instructing her to appear at 1:00p.m. on January 13, 2010. On January 13th, the Claimant testified credibly that she was dealing with protective services regarding her sister and the sister's child. Upon arriving the office approximately ½ hour late, the Claimant explained what had transpired and offered the protective service's telephone number for verification. The worker who the Claimant provided the reason for her tardiness confirmed the conversation. The triage was not rescheduled and the caseworker was instructed to terminate the Claimant's cash assistance even though the Claimant filed a request for hearing during the negative action period. Under the facts presented, the Claimant established good cause for her failure to timely appear for the triage. Accordingly, the termination of FIP benefits is REVERSED.

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.

Accordingly, it is ORDERED:

1. The Department's termination of FIP benefits is REVERSED.
2. The 3-month sanction shall not be imposed.
3. The Department shall reinstate the FIP benefits from the date of closure and supplement the Claimant for any lost benefits she was entitled to receive if otherwise eligible and qualified.
4. The Department shall scheduled a triage (if warranted) based on the December 18, 2009 JET referral.

Colleen M. Mamelka

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

Date Signed: 07/06/2010

Date Mailed: 07/06/2010

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 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.

CMM/jlg

cc:

A large black rectangular redaction box covers the recipient information for the cc field. The redaction is composed of several overlapping horizontal bars of varying lengths, completely obscuring any text that might have been present.