

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: 2010-2979
Issue No: 1012; 3012
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 8, 2009
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, an in-person hearing was held on December 8, 2009. Claimant appeared and testified. Claimant's wife, [REDACTED] also appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly propose to cancel claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits based upon its determination that claimant failed to attend Work First?

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's wife had an open FIP and FAP case. At some point, claimant was added to the FIP and FAP case.

- (2) Claimant asked for a medical deferral.
- (3) Claimant was deferred from Work First until March 30, 2009.
- (4) The department caseworker alleged that a computer generated notice was sent to claimant on August 12, 2009 stating that claimant was to attend Work First by August 17, 2009.
- (5) The department caseworker alleges that she spoke to the wife on the telephone on August 17 or 18, 2009 and claimant's wife told her that he forgot to go to Work First.
- (6) The department caseworker stated that she told the wife that she gave claimant a second chance to go to Work First on August 24, 2009.
- (7) Claimant did not attend Work First on August 24, 2009.
- (8) The department caseworker called claimant on August 26, 2009 and stated that she talked to claimant's son and asked if claimant went to Work First.
- (9) The department caseworker alleged that she told claimant's son that if claimant attended Work First by August 31, 2009 he would not be in noncompliance.
- (10) On September 1, 2009, a FIP and FAP redetermination was conducted.
- (11) The department caseworker stated that at that time she did a triage and asked about the Work First and found that claimant had no good cause for failing to attend Work First.
- (12) On September 11, 2009, the department caseworker sent claimant notice that the Food Assistance Program benefits and Family Independence Program benefits would be reduced based upon its determination that claimant failed to attend Work First.
- (13) On September 16, 2009, claimant filed a request for a hearing stating that he never received notice from the department that he was supposed to return to Work First.

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) 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Claimant testified on the record that the caseworker who was present for the hearing was not present at the redetermination on September 1, 2009. Another caseworker came to the redetermination for the Food Assistance Program benefits and the Family Independence Program benefits and then on September 2, 2009 claimant received a notice of a missed interview for Food Assistance Program benefit review. Claimant testified initially he injured his back and had carpal tunnel syndrome and he went to Work First and wasn't feeling well on November 25, 2008. Work First asked him he wanted to go home and he said yes and he was told he needed a doctor's excuse to come back. Claimant provided a doctor's excuse which excused him from

working until March 30, 2009. Claimant testified that he never heard anything else from Work First or from his caseworker until he received a notice that the Food Assistance Program benefits and Family Independence Program benefits would be reduced based upon his failure to attend Work First.

The Department of Human Services requires participation in employment and or self-sufficiency related activities associated with the Family Independence Program and the Food Assistance Program. BEM 233B. There are consequences for a client who refuses to participate in Family Independence Program employment and/or self-sufficiency-related activities or refuses to accept or maintain employment without good cause.

Department caseworkers are required to perform the following actions when they learn that a client is noncompliant. The department caseworker is supposed to send DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance, within three days of the noncompliance. Check all programs that apply to noncompliance and the related penalty count that applies to each as outlined on the form. The department caseworker is also to hold a triage appointment/phone conference and document the results in Bridges. If the client does not participate in the triage meeting, determine good cause for Food Assistance Program based on information known at the time of the determination. The department caseworkers must determine FAP good cause separately from the FIP based on FAP good cause reasons defined in BEM 233B.

In the instant case, many of the facts were disputed. Claimant testified on the record that he never received notice that he was supposed to attend Work First on August 17, 2009. This Administrative Law Judge acknowledges that there have been many problems with the Bridges computer system as the caseworker testified on the record that claimant did attend a Food

Assistance Program review yet the computer automatically sent claimant a notice stating that he had failed to attend his Food Assistance Program review.

The department caseworker is supposed to send a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance. In the instant case, the department caseworker alleges that she spoke on the telephone to claimant's wife and to claimant's son. At no time did she allege that she sent a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance to claimant and she never spoke to claimant directly about his lack of attendance at Work First. Therefore, this Administrative Law Judge finds that claimant did not have appropriate notice of his noncompliance at Work First because the department caseworker did not send a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance, and did not speak directly to claimant so there was no actual notice. Because there is no evidence on the record that claimant was ever told by either his wife or son that he was to attend Work First.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department failed to establish by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with department policy when it proposed to cancel claimant's Family Independence Program and Food Assistance Program benefits because it determined that claimant had failed to attend Work First. The department failed to provide claimant with adequate notice of employment and/or self-sufficiency related noncompliance.

Accordingly, the department's decision is REVERSED. The department is ORDERED to reinstate claimant's Family Independence Program and Food Assistance Program benefits back to the date of sanction and to pay to claimant any benefits to which he is entitled for the Food Assistance Program and Family Independence Program cases if the programs were sanctioned. In addition, the Family Independence Program and Food Assistance Program benefits sanctions should be lifted.

/s/
Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 14, 2009

Date Mailed: December 14, 2009

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.

LYL/vmc

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