

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: 201036073
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 16, 2010
Wayne County DHS (55)

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 claimant's request for a hearing. After due notice, a telephone hearing was held in Detroit, Michigan on June 16, 2010. The Claimant appeared and testified on her own behalf. Deborah Orean, ES and Harold Allen, Supervisor appeared on behalf of the Department.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and three month sanction upon the claimant by closure of her FIP case for noncompliance with work-related activities?

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 was a FIP recipient in Wayne County.

- (2) As a condition of Eligibility in the FIP program, claimant is a mandatory participant in employment related activities.
- (3) Claimant was assigned to the Jobs, Education and Training (JET, also known as Work 1st).
- (4) Claimant was required to attend Work First but did not do so as she testified her mother was ill and in the hospital on [REDACTED]. Exhibit 1
- (5) The Claimant was required to provide documentation of her mother's hospitalization to her assigned work first representative but did not do so. And was referred for a triage by Work First on August 11, 2010.
- (6) The Department did not schedule a triage for the claimant after two separate requests were made of the Department to do so.
- (7) On April 27, 2010, a triage was held pursuant to a Notice of Non Compliance mailed to the Claimant at [REDACTED]. This is the correct address and is where the Claimant currently resides. Exhibit 2
- (8) The claimant testified that she did not receive the Notice of Non Compliance and triage appointment.
- (9) The Claimant did not attend the triage and at the triage the Department found there was no good cause for the Claimant's failure to attend and participate in the Work First program.
- (10) A Notice of Case Action was sent to the Claimant at [REDACTED] closing the Claimant's FIP case for 3 months due to her lack of good cause for failure to comply with the Work First requirements. The Claimant received the Notice of Case Action mailed to her. Exhibit 3
- (11) The Claimant did not have problems with her mail.

- (12) This was the Claimant's first finding of non compliance with the Work First program.
- (13) The Department closed the Claimant's FIP case on June 1, 2010. Exhibit 3
- (14) The Claimant did not provide proof of her mother's hospitalization at the hearing.
- (15) On May 5, 2010, the Department received the Claimant's request for hearing dated April 30, 2010 protesting the Department's closure of her FIP case.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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.

Furthermore, Work First participants cannot be terminated from the Work First program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. If a client calls to reschedule, a phone triage should be attempted to be held immediately, if at all possible. If it is not possible, the triage should be rescheduled as quickly as possible, within the negative action period. At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. BEM 233A.

If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

Before the Administrative Law Judge can review a proper good cause determination, there must first be a determination of whether the claimant was actually non-participatory with the requirements for the JET program. The evidence submitted by the Department, clearly demonstrated non compliance as the Claimant failed to attend work first due to her mother’s hospitalization and did not provide proof at the triage or at the hearing of the hospitalization. It does appear that the Department’s finding of no good cause was correct as no evidence excusing the Claimant’s non attendance, or otherwise supporting a finding of good cause was presented. In

determining whether good cause has been demonstrated for non compliance with a Work First requirement, the standard to be applied is provided in BEM 233A page 3:

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. A claim of good cause must be verified and documented for member adds and recipients.

The Claimant's mother's hospitalization, per se, did not provide good cause as BEM 233A limits good cause to illness of a family member that requires in home care. BEM Page 4. Good cause can also be established by an unplanned event involving illness which might have applied except no documents indicating the hospitalization was contained in the Work First files or presented at the hearing. Id. Page 5.

Lastly, it must also be determined that the Notice of Non Compliance was properly addressed to the Claimant's correct address and mailed, and therefore must be presumed to have been received by the Claimant. This determination is also based upon the fact that the Notice of Case Action was received by the Claimant at the same address and the testimony of the Claimant that she was not having problems with her mail.

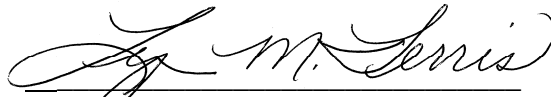
After a careful examination of the documentary evidence provided by the Department, the Administrative Law Judge has determined that the Department has met its burden of proof and is correct in its finding that the claimant failed to participate with the Work First program activities, as required, and did not demonstrate good cause why she did not comply with her assigned JET requirements. Accordingly, the Department properly closed the Claimant's FIP case for three months for non compliance with the Work First program. BEM 233A page 6.

Therefore, the undersigned must rule that the Department's 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.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the claimant was not in compliance with the Work First program and that the Department's finding of no good cause, for failure to participate in the JET activities, is correct.

Accordingly, the Department's determination finding the claimant in non compliance with the Work First program requirements and that no good cause was established at the triage is upheld, and the closure of the Claimant's FIP case for three months is AFFIRMED.



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:

