

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-48085
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 15, 2010
Wayne County DHS (35)

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 a hearing. After due notice, a telephone hearing was held on September 15, 2010. The claimant appeared and testified. [REDACTED], FIM, [REDACTED], Jet Coordinator, and [REDACTED] FIS appeared on behalf of the Department.

ISSUE

Did the department properly close the claimant's Family Independence Program (cash assistance) case for noncompliance with the Work First Program?

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 was a recipient of Cash Assistance, Food Assistance and Medical Assistance.
2. The claimant was assigned to attend WorkFirst and attended WorkFirst until March 28, 2010.
3. The Department sent the claimant a Notice of Noncompliance for non compliance with the requirements of the WorkFirst program dated July 13, 2010 and scheduled a triage for July 16, 2010.
4. The Claimant received the Notice of Noncompliance after the time scheduled for the triage.

5. The Claimant did not attend the triage because he received the notice of the triage too late.
6. The Claimant received the Notice of Noncompliance after the scheduled time for the triage but prior to the date for closure of the case, July 23, 2010.
7. The claimant reported to the Department's offices to advise the department that his Notice of Noncompliance and triage came after the triage appointment and was told by the Department Representative he spoke with to fill out a request for hearing.
8. The claimant's completed a request for a hearing on July 20, 2010 which was received on the same date by the department.
9. At the hearing the Department agreed to schedule another triage as the Claimant did not have an opportunity to attend the first triage. The new triage will be held on September 22, 2010 at 2:30 pm in Ferndale, Michigan at the work first facility. The Claimant will be given the opportunity to demonstrate good cause for his non attendance at the work first program on and after March 28, 2010.
10. The Claimant was advised to bring his pay stubs from his employment, work activity and any other relevant records to establish when he has worked from and after March 28, 2010, and also to bring proof to establish that he was enrolled in a training program he has been attending at Focus Hope. The Claimant should also provide attendance records for the school program Focus Hope and other information about the program so that the Work First representative can determine if the training program can be validated as a work first activity.

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 R400.3101-3131. 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.

Under Bridges Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing.

In this matter the Department agreed that a new triage should be scheduled and reached agreement with the Claimant to re schedule the first triage again. Any finding regarding good cause, if any, from the first triage, and penalty for non compliance shall be deleted from the Claimant's case. Likewise, any actions, penalties or sanctions which were taken affecting the Claimant's case shall be set aside and deleted from the Claimant's case file. The Department shall be required to make findings regarding non compliance and determine if the Claimant had good cause for non compliance with the Work First requirements in accordance with the Bridges applicable policy. The parties agreed that the triage will be held on September 22, 2010 at 2:30 pm.

Since the Claimant and the Department have come to an agreement it is unnecessary for this Administrative Law Judge to make a decision regarding the facts and issues in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department and Claimant have come to a settlement regarding claimant's request for a hearing.

Accordingly it is ORDERED:

1. The Department shall conduct a triage on September 22, 2010 at 2:30 pm at which time it shall determine if the claimant was in non compliance with the WorkFirst Program Requirements and whether the Claimant has demonstrated good cause for any non compliance.
2. Any finding of non compliance and failure to demonstrate good cause as a result of the first triage of July 16, 2010 shall be set aside and is null and void.
3. Any penalty or sanction imposed by the Department as a result of the triage of July 16, 2010 shall also be deleted from the Claimant's case record.
4. The Claimant shall be given the opportunity to demonstrate good cause and provide documentation regarding the dates and times of his attendance at school training at Focus Hope and the program training details.
5. The Claimant shall be given the opportunity to offer records of his pay stubs and time records regarding his employment from and after March 28, 2010 and shall be entitled to offer any other evidence that the claimant had good cause for his alleged failure to attend WorkFirst.



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

Date Signed: 9/17/2010

Date Mailed: 9/17/2010

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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/jlg

cc:

