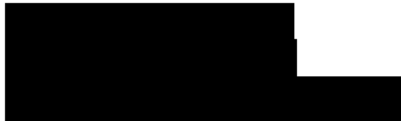


STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg No: 2011 28373  
Issue No: 1038;3029  
Case No: [REDACTED]  
Hearing Date:  
May 5, 2011  
Wayne County DHS (41)

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 May 5, 2011. The Claimant appeared and testified. Peter Martin, Jet Worker, and Linda Caver FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action closing the Claimant's FIP case and reducing the Claimant's FAP benefits when it imposed a 3 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 deemed to be in non compliance with the Work First program she was attending as she was not completing the required hours of participation.

2. A triage was held and the Claimant was offered a Form 754 and agreed to a compliance test to complete 30 hours of job search activities by February 25, 2011, and provide verification by turning in an outside job search log. Exhibit 1
3. The Claimant attempted to turn in the job search log on February 22, 2011, but the job search log was not accepted by the work first manager, as the Claimant was late for her appointment. Claimant Exhibit 1
4. The Claimant did complete her 30 hours of job search. Claimant Exhibit 1.
5. The Claimant missed an appointment on [REDACTED], due to a doctor's appointment and then was late for her scheduled appointments on [REDACTED] and [REDACTED], when she testified she was at the doctor. Exhibit 2
6. The Claimant had been late for at least one other scheduled appointment, with the work first program, while she was subject to compliance test requirements. The Claimant had been told that she could fail the compliance test requirements if she was late for scheduled appointments. Exhibit 2.
7. The hearing record was held open until March 9, 2011, for the Claimant to submit a doctor's note to establish she was at the doctor on [REDACTED] [REDACTED], at the time she was to report to work first for a scheduled 8:30 am appointment.
8. No doctor's note was received by the undersigned from the Claimant on [REDACTED] or thereafter.

9. The Claimant requested a hearing on March 20, 2011, protesting the closure of FIP cash assistance for 3 months and reduction in her FAP benefits.

#### 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.

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 at 4. Good cause includes being physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. It also includes having an immediate family member with an illness or

injury that requires in-home care by the client. Id. The penalty for noncompliance without good cause is FIP closure. Id. at 6. If good cause is established the negative action is to be deleted. Id. at 12.

In this case, the Claimant attended the first triage and did not establish good cause and was offered and accepted a form 754 to avoid sanction and closure of her FIP case for 3 months. Exhibit

The terms of the First Noncompliance Letter, Form 754 required the Claimant to demonstrate compliance starting February 14, 2011 and complete 30 hours of job search activity by February 25, 2011.

The record established that the Claimant missed an appointment on [REDACTED], due to a doctor's appointment and then was late for her scheduled appointments on [REDACTED] and [REDACTED], when she testified she was at the doctor. The Claimant did not provide the work first program with a doctor's note for her missed appointment on [REDACTED], and did not submit a doctor's note after the hearing although she was offered an opportunity to do so and the record was left open for that purpose. The Claimant understood that she had to be on time for her appointments or her case would be sanction and closed if she did not comply. Notwithstanding this condition, the Client was late and was sanctioned. Under these circumstances, even though the Claimant may have completed the 30 hours of job search activities, the Claimant did not comply with reporting for her appointments on time. Under these circumstances it must be found that the Department correctly sanctioned and closed the Claimant's FIP case and decreased her FAP benefits correctly as the Claimant did not comply with the terms of her form 754 compliance test. The case notes indicated that

the Claimant was repeatedly told that if she were late for any appointment she would be sanctioned.

BAM 233A provides as follows:

Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and can be based on information already on file with the DHS or the JET program. Page 8.

Policy BEM 233A page 8 goes on to provide:

If the noncompliant client meets or if a phone triage is held with a FIS and/or the JET case manager and the decision regarding the noncompliance is "No Good Cause", do the following:

First Case of Non Compliance Without Loss of Benefits Discuss and provide a DHS-754, First Noncompliance Letter, regarding sanctions that will be imposed if the client continues to be noncompliant.

Advise the client that the instance of noncompliance will remain on record even if the client complies. The noncompliance will be excused, but not erased and could result in longer sanctions if the client is noncompliant in the future.

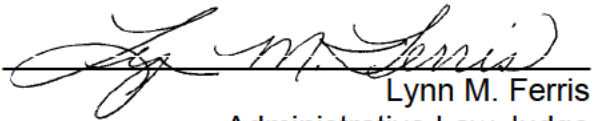
If the client accepts the offer to comply and agrees with the department's decision of noncompliance without good cause, use the first check box on the DHS-754 and document compliance activities. Include the number of hours of participation the client must perform to meet the compliance activity requirement. Advise the client that verification of the compliance is required by the due date on the DHS-754.

Although the Department attempted to offer the claimant an opportunity to demonstrate compliance with the work first requirements, the Claimant did not comply and thus, under these circumstances, the Department correctly closed the Claimant's FIP case for 3 months and reduced her FAP benefits.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination to close the Claimant's FIP case for 3 months and reduce her FAP benefits, as a result of non compliance with work first requirement, is upheld and is AFFIRMED.

  
Lynn M. Ferris  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 05/19/11

Date Mailed: 05/20/11

**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:

[REDACTED]