

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011 29505
Issue No.: 1038, 3029
Case No.: 1 [REDACTED]
Hearing Date: May 9, 2011
District: Wayne County DHS (18)

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 May 9, 2011. The claimant appeared and testified. [REDACTED] Jet Coordinator, [REDACTED] Case Manager appeared and testified on behalf of the Department.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and three month sanction closing the Claimant's FIP case and reducing the Claimant's FAP benefits 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. The Claimant was an ongoing recipient of FIP Cash Assistance and Food Assistance.
2. On April 13, 2011, the Department issued a Notice of Case Action, which closed the Claimant's FIP Cash Assistance case for a three month period, beginning May 1, 2011, and reduced her FAP benefits as a result of the Claimant's non compliance with work related activities. Exhibit 1
3. Prior to the case closure, the Claimant had been assigned to attend Work First orientation on several dates and had not attended. Pursuant to a Notice of

Noncompliance, the Department found that the Claimant was non compliant without good cause and resulted in a form 754 agreement (First Noncompliance Letter was agreed to. The Claimant agreed to return to Work First on February 24, 2011. Exhibit 2

4. On February 24, 2011, the Claimant met with the Work First program and advised that she had mental issues that did not allow her to work and turned in a letter from her doctor excusing her from work stating that she would be on leave of absence for 6 months. The Claimant was seeing a psychiatrist and therapist at the time. Exhibit 8
5. As a result of the February 24, 2011 meeting, the Department sent the Claimant, on March 30, 2011, a Medical Determination Verification Checklist with forms to be completed by her doctor with a due date of April 11, 2011.
6. The forms that were to be completed by April 11, 2011 were: Medical Examination Report; Psychiatric/Psychological Exam rept.; Mental Residual Functional Capacity Assessment; Medical Social Questionnaire; and authorization to release information.
7. The Claimant returned the forms by April 8, 2011, but the forms requiring a doctor's signatures were not signed by her doctor. The claimant did not ask for an extension and did not advise the Department that her doctor was not available. Exhibit 4b and 4c.
8. The claimant filled in part of the forms and a case manager, who was not a doctor, also completed some of the forms. Exhibits 4b and 4c.
9. The Claimant submitted, with the forms, two psychiatric evaluations, not on DHS forms, which were signed by her doctors; a psychiatric evaluation dated 1/18/11 signed by [REDACTED] and a psycho-Social Assessment dated 1/11/11 Exhibits 9 and 10.
10. On April 27, 2011, after the Claimant's case was closed and past the April 11, 2011 due date, the Claimant returned the Psychiatric/Psychological Examination Report signed by her doctor. Exhibit
11. The Claimant requested a hearing on April 17, 2011, protesting the closure of her FIP case indicating she had turned in a letter from her psychiatrist stating that she could not work.

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. 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.

In this case, the good cause, which was under consideration, and documentation that would have supported it was based on the provision involving mental health issues resulting in inability to participate:

The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance. BEM 233A page 4.

JET participants cannot be terminated from a JET program without first scheduling a "triage" meeting with the client to jointly discuss noncompliance and good cause. In this case, because the Claimant was not attending the Work First program, the meeting occurred with the Department only. It was as a result of this meeting that the Claimant was offered the opportunity to submit medical information to support a deferral from the program.

The Claimant advised the Department at its meeting on February 24, 2011 that, due to health and mental health problems, she could not attend the Work First program and presented the Department with a letter from her doctor indicating that she could not work and required a 6 month leave of absence. Exhibit 8. The Department as required by policy sent the Claimant a medical determination verification checklist, which when completed, would be submitted to the Medical Review Team to determine whether the Claimant was disabled and therefore deferred from Work First. Because the Claimant's doctor's letter indicates disability for more than 90 days, the Department was required to seek a Medical Review Team review. BEM 230, Page 12.

The Department sent a series of forms to the Claimant in support of her deferral and set a due date of April 11, 2011. On April 8, 2011, the Claimant returned the forms but both of the forms requiring a doctor's signature were not signed. The Department closed the Claimant's FIP case on May 1, 2011 because the required good cause had not been demonstrated as the medical information had not been provided to the Department. BEM 233A.

Department policy requires that verification of medical information be responded to by the due date, unless an extension of time is requested. The Medical Determination Verification Checklist clearly advises clients to call their caseworker right away if they have question or problems getting the proofs and further suggests that the Department may assist a client to get the proofs. The claimant did not call her caseworker, did not ask for an extension, nor did she seek help. Under these circumstances the Claimant did not respond by the due date and thus the Department was correct in closing the Claimant's FIP case. BAM130.

Department Policy requires that the Department send a case action notice when:

The client indicates refusal to provide a verification, **or**
The time period given has elapsed.

In this case, because the forms submitted were incomplete and not signed by the Claimant's doctor, the Department could not process the forms or submit the information to the Medical Review Team to evaluate the deferral, and thus the Claimant was found to have not demonstrated a good reason for her failure to attend the Work First program, as deferral was no longer available.

This decision was also influenced by the fact that the forms clearly indicate that they are to be filled out by a doctor and require a signature. The Claimant did not advise the Department of any difficulty obtaining the doctor's signature, had she done so an extension to file the forms would have been given.

Based on the foregoing fact and circumstances, it is found that the Claimant did not respond appropriately to the verification request because even though the forms were submitted before the due date, they were incomplete. Therefore, it must be determined that the Department properly sanctioned the Claimant's FIP case for non compliance

with work related activities as the Claimant failed to submit the forms in a completed state and thus no deferral was available. BAM 130 and BEM 230 A.

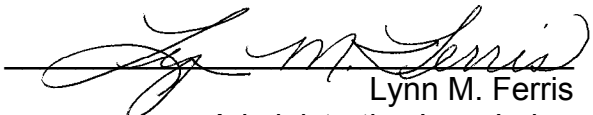
Even though the Claimant submitted a completed Psychiatric/Psychological form on April 27, 2011, after the verification due date, the Department had closed her case because the due date had expired. Exhibit 6. The Medical Examination Report was never completed by a doctor. Exhibit 4b.

After a careful examination of the documentary evidence provided by the Department and the Claimant and the testimony of the witnesses, the Administrative Law Judge has determined that the Department's finding of no good cause and the imposition of a three month sanction, closing the Claimant's FIP Cash Assistance case and reducing her FAP benefits, was correct and is AFFIRMED.

After the sanction period is concluded, the Claimant may reapply before the third month of sanction and may also seek a deferral from attending Work First at that time but will be required to substantiate her medical reasons for deferral with an appropriate doctor's statement(s) and have her doctor complete and sign any DHS forms, which are required to be submitted by the any verification due date established.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's determination of no good cause and its action imposing a three month closure of the Claimant's FIP case and reduction of the Claimant's FAP benefits, is correct and in accordance with Department policy and is AFFIRMED.



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

Date Signed: 05/24/11

Date Mailed: 05/26/11

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:

