

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011 29508
Issue No: 1038
Case No: [REDACTED]
Hearing Date:
May 9, 2011
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 claimant's request for a hearing. After due notice, a telephone hearing was held in Detroit, Michigan on May 9, 2011. The Claimant appeared and testified on her own behalf. [REDACTED] FIM, [REDACTED] Case Manager, and [REDACTED] Jet Coordinator appeared on behalf of the Department. [REDACTED] appeared on behalf of the Jet Program as a witness for the Department.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and three month sanction upon the claimant for failure to follow the terms of a Form 754 agreement she agreed to so as to avoid sanction 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 a FIP, cash assistance recipient.
2. The Department issued a Notice of Non Compliance, which set up a triage for March 31, 2011, for disruptive behavior at community service. The Claimant was triaged because she was asked not to return to the community service program. Exhibit 2
3. The Department conducted a phone triage, which the Claimant attended by phone, and the Department found the Claimant in non compliance without good cause.
4. As a result of the triage, the Claimant agreed to sign a form DHS Form 754 allowing her to avoid sanctions for non compliance with Work First attendance requirements. Exhibit 3
5. The Claimant was to come into DHS and sign the Form 754 the next day and agreed to report to Work First on April 4, 4011 at 9:00 am.
6. The Claimant did not come in and sign the Form 754 and showed up three hours late on April 4, 2011 and missed her appointment at 9:00 am.
7. The Claimant's case was closed due to her failure to present herself at the appointed time on April 4, 2011.
8. The Department issued a Notice of Case Action on April 4, 2011, which closed the Claimant's FIP case for 3 months, effective May 1, 2011 and reduced the Claimant's FAP benefits for non compliance with work related activities. Exhibit 1.
9. The claimant requested a hearing on April 11, 2011, protesting the 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, 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. 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. In this case a phone triage was held to accommodate the Claimant who could not get to the triage. 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. In this case, the triage conducted was the first triage and finding of non compliance for the Claimant, so the Claimant was given an offer to be excused from the 3 month sanction of FIP case closure. BEM 233A p. 8 - 9. The Claimant was in essence given another chance to participate in the Work First program without the penalty being imposed. Exhibit 1.

The evidence submitted by the Department demonstrated that the Claimant was offered and accepted DHS Form 754, when after the phone triage she was deemed in non compliance due to her attendance. The Claimant never signed the Form 754 and agreed to report to Work First on April 4, 2011 9:00am. The Claimant did not show up for her appointment even though she was under a compliance test. The claimant was directed to report by a time certain and failed to appear. Under these circumstances, the Claimant did not meet the terms of her agreement and the Department correctly

closed her FIP case. Failure to adhere to the terms of a 754 agreement allows the Department to institute case closure. If the client fails to meet or contact the FIS or fails to provide verification of compliance without good cause, the three-month sanction applies. BEM 233A, p 9.

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 in and is correct in its finding that the claimant failed to perform the terms of the agreed to Form 754 when she did not show up to fulfill the terms of the agreement on April 4, 2011, the appointed date and appointed time. The Department's decision is affirmed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's closure of the Claimant's FIP case for 3 months, beginning May 1, 2011 for failure of the Claimant to comply with the requirements in the Form 754, is in accordance with Department policy found in BEM 233A and is AFFIRMED.


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

Date Signed: 05/26/11

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:

