

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201143972
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 17, 2011
Wayne County DHS (49)

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 August 17, 2011. The claimant appeared and testified. [REDACTED], FIS appeared on behalf of the Department of Human Services. [REDACTED] appeared as a witness for the Department.

ISSUE

Whether the Department properly closed the claimant's FIP case and imposed a 3 month sanction for non compliance with work related activities without good cause.

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 had a triage on 3/31/11 at which time she was offered a form 754, as no good cause was established for her lack of attendance and participation in March 2011.
2. As a result of the triage, the Claimant was to return to Work First on 4/4/11.
3. The Claimant did return to Work First on 4/4/11, but could not stay at the program because she had a repair at her apartment requiring her to be present to move her furniture and be present when an outside contractor arrived to make the repair.

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4. The Work First contractor requested that she provide proof that she had to be present and a copy of the work order for the work; and to present it to them on 4/6/11.
5. The repair was made on April 5, 2011.
6. On April 6, 2011 the Claimant provided the Work First program with a letter from her apartment management company indicating that she was not required to be present. The Claimant could not provide the work order on that date, as the work was done by an outside contractor and her landlord had not received a receipt.
7. The Claimant had to be present to move her furniture so the repairs could be made and required that she seek assistance to have dryer hook up disconnected. The Claimant also had to be present, as she did not know when the contractor hired to do the repairs would arrive.
8. The Claimant provided the work order to her caseworker when she received it from her landlord.
9. The Department closed the Claimant's FIP case for failure to comply with the triage outcome effective 8/1/11.
10. The Claimant requested a hearing on July 18, 2011 protesting the closure of her FIP cash assistance.

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"), formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq* and Michigan Administrative Code Rules 400.3101-3131. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A All Work Eligible Individuals ("WEI") are required to participate in the development of a Family Self-Sufficiency Plan ("FSSP") unless good cause exists. BEM 228 As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. BEM 233A The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program ("JET") or other employment service provider. BEM 233A Good cause is a valid reason for noncompliance with employment

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and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. BEM 233A Failure to comply without good cause results in FIP closure. BEM 233A The first and second occurrences of non-compliance results in a 3 month FIP closure. BEM 233A The third occurrence results in a 12 month sanction.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A In addition, a triage must be held within the negative action period. BEM 233A A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A.

In this case, it is clear that the Claimant was given an opportunity to avoid sanctions after a triage was held in March 2011 and the Claimant was found in non compliance without good cause. Thereafter the Claimant was required to report to the Work First program on April 4, 2011 to resume her Work First participation activities. At the hearing it was clear that the Claimant was required, due to circumstances not within her control, to be present during repairs being made at her residence, and was required to move furniture and be available to receive the contractor who was hired by her apartment to make the repairs. The Claimant's testimony in that regard was very credible. After the repairs were made the Claimant returned to Work First and provided documentation that the repairs were made. The Claimant had a good and valid reason not to be present at work first on April 4, 2011 and April 5, 2011 and thus the closure of her FIP case was in error and not in accordance with Department policy regarding good cause.

Based upon the foregoing, the Claimant demonstrated a good cause reason why she could not attend Work First on April 4, 2011 and April 5, 2011, and therefore the closure of her FIP case for non compliance with the triage outcome requirements was in error. and is reversed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Claimant demonstrated good cause why she could not comply with the triage outcome requirement and the Department's closure of her case was in error and not in accordance with department policy and is therefore REVERSED.

Accordingly it is ORDERED:

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1. The Department shall reopen and reinstate the Claimant's FIP case retroactive to the date of closure, August 1, 2011.
2. The Department shall issue a supplement to the Claimant for any FIP benefits she was otherwise entitled to receive, in accordance with Department policy.
3. The Department shall remove the 3 month sanction imposed on the Claimant, as a result of the March 2011 triage, from the Claimant's case records and the Department's Bridges computer system.
4. The Department shall return the Claimant to the Work First program.



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

Date Signed: August 24, 2011

Date Mailed: August 24, 2011

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 receipt 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.

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