

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201144986
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 25, 2011
Macomb County DHS (36)

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 25, 2011. The Claimant appeared and testified. [REDACTED], FIM, and [REDACTED], FIS case manager appeared on behalf of the Department. [REDACTED], JET Liaison, appeared on behalf of Michigan Works Program.

ISSUE

Whether the Department properly closed the Claimant's Cash Assistance case and imposed a three-month sanction due to the Claimant's failure to comply with the First program requirements 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 was assigned to attend Work First and was found in noncompliance and a triage was scheduled for June 14, 2011. This was the Claimant's second non compliance.
2. A triage was conducted on June 14, 2011, by telephone, at which time the Department and the Work First program representative reviewed with the Claimant her absences from the program to determine whether there was good cause for her exceeding the 16 absence hours allowed program participants. Exhibit 1.

3. The triage result found that the Claimant was in noncompliance without a good cause, as the Claimant did not document the reasons for her absences through verification, and did not communicate with the Work First program. Exhibit 1.
4. The Claimant provided a Medical Needs form completed by her doctor indicating that the Claimant was needed in the home to provide care for her 25-year-old daughter, and that she could not engage in work due to the extent of care required. Exhibit 2.
5. The Claimant's daughter is a special needs child who attends school from 8 a.m. to 3 p.m., five days per week.
6. The Work First program was aware of the Claimant's child's special needs and agreed to accommodate her when she needed to leave due to issues regarding her daughter.
7. The Claimant was advised that she was required to verify periods of absence due to her child's requirements. Exhibit 3.
8. The Claimant did not provide the Work First program with any verification regarding her absences.
9. The Claimant requested a hearing on July 19, 2011, protesting the closure of her cash assistance (FIP) due to noncompliance with work related activity without good cause.

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

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 the Claimant was found to be in noncompliance without good cause due to her absences, which exceeded the 16 hours per month of allowed absence. The Claimant takes the position that due to her daughter's special needs she cannot attend the Work First program. The Department and the Work First program acknowledge that the Claimant's daughter is a special-needs adult, and that Department policy did not allow a deferral pursuant to BEM 233 page 19. Department policy does allow for deferral from the Work First program for individuals who must care for a child or spouse who is disabled. However Department policy defines a child as follows:

Age of a Child

FIP Only

A **child** must meet one of the two conditions described below:

The child is age 18 or younger.

The child is age 19, a full-time high school student **and** expected to graduate by age 20.

As demonstrated by the definition of child, the Claimant's daughter is no longer deemed to be a child by Department regulations. Therefore, the Department could not defer the Claimant for that reason under BEM 233A (referenced above). This Administrative Law Judge, like the Department must follow policy, and the policy does not allow the Department to defer the Claimant for care of her 25 year old daughter.

At the hearing, it was also determined that the Claimant's daughter attended school from 8 a.m. to 3 p.m., five days a week. Thus, it is apparent from these facts that the Claimant's was available to attend Work First during hours her child was in school and

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did not otherwise require her attention due to her special needs. The Claimant's failure to provide any verification that she was required to be with her daughter at school, or otherwise assist her daughter, left the Department with no choice but to determine a lack of good cause. The Claimant was given the rules and regulations of the Work First program and did not communicate her absences and the reasons for the absence when they occurred, nor did she independently verify that she was required to be either at school, or otherwise care for her daughter, through documented evidence such as attendance records, doctor's visits or other written statements from individuals at her daughter's school.

From the record presented it appears that the Work First program made efforts to accommodate the Claimant's situation and was not unsympathetic to her situation, but that the Claimant did not make sufficient attempts to communicate, or otherwise document and verify her absences from Work First. This Administrative Law Judge is not unsympathetic to the Claimant's situation and the difficulty of caring for a special needs family member, however, based upon the facts, testimony and documents presented, it is determined that the Department correctly determined that the Claimant was in noncompliance without good cause.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department correctly determined that the Claimant was in non compliance with Work First requirements for attendance and did not demonstrate good cause, and therefore, it correctly closed her FIP cash assistance case. The Department's negative action closing the Claimant's FIP case and imposing a three month sanction is therefore AFFIRMED.



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

Date Signed: August 26, 2011

Date Mailed: August 26, 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

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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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