

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201145436
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 25, 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 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] appeared as a witness for the Claimant. [REDACTED], JET Coordinator, and [REDACTED], JET Specialist, appeared on behalf of the Department of Human Services. [REDACTED], JET Coordinator, Michigan Works also appeared as a witness.

ISSUE

Whether the Department properly closed, and sanctioned for 3 months, the Claimant's FIP cash assistance case 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 was sent a Notice of Noncompliance by the Department for failure to attend Work First. Exhibit 2.
2. The Claimant did not attend the triage held on June 23, 2011.
3. The triage notice did not advise the Claimant regarding the correct reason for non compliance. Exhibit 1.

4. The Claimant did not attend the Work First program because she had an unanticipated emergency, and was facing eviction of her family from her home. Claimant Exhibit 1.
5. The Department closed and sanctioned the Claimant's FIP case for a 3 month period for non compliance with work related activities on August 1, 2011. Exhibit 3.
6. The Claimant did not attend the triage. Prior to the eviction emergency, the Claimant had been consistently attending the Work First program and meeting her assigned requirements.
7. The Claimant requested a hearing on July 25, 2011 protesting the closure of her Cash Assistance 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 (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and Michigan Administrative Code Rules 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).

The Family Independence Program (FIP) and Refugee Assistance Program (RAP) are temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP and RAP engage in employment and self-sufficiency related activities so they can become self-supporting. The goal is also to remove any barriers that exist that keep individuals from compliance. BEM 230A, page 1, BEM 233A, Page 1.

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 demonstrated a good cause reason for her non compliance with the Work First program requirement. Facing one's family being evicted from their home is a serious emergency, and an unplanned event that required the Claimant's full attention as she sought, and needed help, from other agencies to meet her rent obligation and avoid eviction and homelessness. Homelessness is one of the specifically cited examples of an unplanned event, BEM 233 A, Page 5. Under these circumstances the Claimant properly demonstrated good cause at the hearing, and thus her FIP case should not have been sanctioned for 3 months and closed. This decision was also influenced by the fact that the Claimant advised the Work First program of the serious emergency. The Work First program directed the Claimant to respond immediately by delivering to the program proof of eviction at a time when the Claimant was attempting to avoid eviction and homelessness at all costs. The claimant could have been allowed to fax the information to the program or even provide a case number for the eviction which could later be verified.

Additionally, the Notice of Noncompliance was defective and did not comply with Department policy. Exhibit 1. The Notice of Noncompliance did not provide dates of non compliance, the reason for the non compliance and clear statement of penalty duration. This notice is insufficient to give notice to Claimant of the specific date of noncompliance, and how she failed to comply. Because these two items of information are inadequate, DHS cannot fulfill its task to identify and address Claimant's barriers to employment and self-sufficiency.

Based upon these facts and circumstances, the Claimant had good cause for her non compliance and the Department did not provide proper notice to the Claimant of the non compliance, as stated above, and its actions were improper and clear error.

DECISION AND ORDER

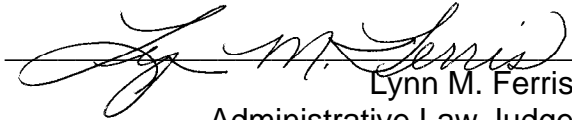
The Administrative Law Judge based on the above findings of fact and conclusions of law, finds that the Department incorrectly closed the Claimant's FIP case for non

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compliance without good cause and improperly imposed a 3 month sanction for non compliance without good cause. The notice of non compliance was not issued in accordance with Department policy. For these reasons, the Department's actions closing and sanctioning the Claimant's FIP case for a three month period for non compliance without good cause are REVERSED.

Accordingly it is ORDERED:

1. The Department shall initiate procedures to reinstate Claimant's FIP benefits effective to the date of closure, August 1, 2011.
2. The Department shall initiate procedures to remove all sanctions imposed on Claimant for non compliance, arising from the triage held on June 23, 2011, from the Claimant's case record and correct the Department's records.
3. The Department shall initiate procedures to delete any negative case actions taken.
4. The Department shall initiate procedures to provide Claimant with all appropriate supplemental retroactive benefits.
5. The Department shall initiate procedures to re-enroll Claimant in the JET program as one of the requirements for receiving FIP benefits.


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

Date Signed: August 31, 2011

Date Mailed: August 31, 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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