

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

IN THE MATTER OF:



Reg. No.: 201146556
Issue No.: 1038; 3029
Case No.: [REDACTED]
Hearing Date: August 31, 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 from Detroit, Michigan on August 31, 2011. The Claimant appeared and testified. [REDACTED], Case Manager, appeared on behalf of the Department of Human Services.

ISSUE

Whether the Department properly sanctioned and closed the Claimant's cash assistance (FIP) 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 assigned to attend the Work First program.
2. The Claimant did not receive the Notice of Non Compliance scheduling the triage.
3. The hearing file did not contain the Notice of Non Compliance, and one could not be printed.
4. The Department scheduled a triage, but did not conduct the triage because the Claimant did not attend. The Department was unclear whether, at the triage, a finding of non compliance without good cause was made.

5. The Claimant was sanctioned and her FIP case closed effective August 1, 2011.
6. The Department could not confirm whether this was the Claimant's third sanction for non compliance with work related activities without good cause.
7. No one from the Work First program attended the hearing, so no one testified with first hand knowledge regarding the triage and events which caused the Claimant to be in non compliance, which the Claimant disputed at the hearing.
8. The Claimant requested a hearing on July 18, 2011 protesting the closure of her FIP and FAP case for non compliance with work related activities 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").

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. 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

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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 did not receive the Notice of Noncompliance and did not attend the triage. The Claimant credibly testified. Because the Claimant did not receive notice of the triage, she did not have an opportunity to demonstrate good cause. The Department could not confirm that this was the Claimant's third non compliance sanction and there was no Notice of Non Compliance in the hearing file. The Department could not produce a Notice of Non Compliance, so a confirmation of the address where it was sent could be confirmed.

Based upon the foregoing, the Department did not demonstrate that it complied with the requirement that it give the Claimant notice of the reasons for non compliance and notice of the triage. Therefore, the Department did not meet its burden of proof to support closure and sanction of the Claimant's FIP and FIP case.

DECISION AND ORDER


The Administrative Law Judge, based on the above findings of fact and conclusions of law, find that the Department improperly closed and sanctioned the Claimant's FIP case for 12 months, as the Claimant did not receive the Notice of Non Compliance, and was not given an opportunity to attend the triage. Accordingly, the Department's determination closing the Claimant's FIIP and FAP case and imposing a 12 month sanction is REVERSED.

Accordingly it is ORDERED:

1. The Department shall initiate reopening of the Claimant's FIP and FAP case retroactive to the date of closure August 1, 2011, due to non compliance with Work First.
2. The Department shall initiate issuing a supplement to the Claimant for FIP and FAP benefits she was otherwise entitled to receive, in accordance with Department policy.

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3. The Department shall delete and remove from the Claimant's case record, and the Bridges system, the 12 month sanction it imposed arising out of the triage held July 6, 2011.
4. The Department shall reschedule and conduct another triage, and shall provide a new Notice of Non Compliance to the Claimant specifically outlining the dates of non participation and the reasons for non participation, as well as the penalty to be imposed as required by Department policy.


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

Date Signed: September 1, 2011

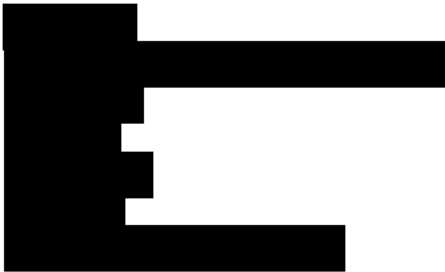
Date Mailed: September 1, 2011

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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