

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-47621
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: September 15, 2011
Wayne County DHS (76)

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 September 7, 2011. The Claimant appeared and testified. [REDACTED] FIM and [REDACTED], FIS appeared on behalf of the Department of Human Services. [REDACTED] of [REDACTED], appeared as a witness for the Department.

ISSUE

Whether the Department correctly sanctioned and closed the Claimant's cash assistance (FIP) 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 Department closed the Claimant's cash assistance case on 8/31/11 for non-compliance with work related activities without good cause and imposed a 3 month sanction on the Claimant.
2. A triage was held on 6/30/11 and good cause was established, and the Claimant was scheduled to return to the Work First program on 7/5/11.
3. On 7/11/11 the Claimant was advised to increase her participation hours to meet the attendance requirements.

4. Subsequently, the Work First program attempted to contact the Claimant for a one week period, but was unsuccessful.
5. A notice of non compliance was sent to the Claimant on 7/26/11 scheduling a triage on 8/4/11. Exhibit 2
6. A second triage was held on 8/4/11 and no good cause was found for the Claimant's failure to attend the Work First program.
7. The Claimant did not attend the Work First program for the period 7/15/11 through 7/21/11.
8. The Claimant testified that she applied for day care in January, June and July 2011. The Claimant testified that she never heard back from the Department.
9. The Department had only one day care application dated 2/28/10 in its records. The Department had no record of any day care applications for January, June or July, 2011.
10. The Claimant could not explain why she did not return the phone calls from the Work First program during the week of 7/15/11 through 7/21/11.
11. The Department had no record of a day care application filed by the Claimant after the June 30, 2011 triage.
12. As of the hearing date, the Claimant did not have an active child day care case and had not applied for child day care.
13. The Claimant requested a hearing on 8/4/11 protesting the closure and sanction of her FIP cash assistance benefits.

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") as a condition of eligibility 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 claimed to have applied for child day care after her triage, but the Department had no record of any application having been filed. The Claimant also did not appear to have been cooperating with the Work First program for an entire week in July 2011 (from July 15, 2011 through July 21, 2011), and did not adequately explain why she did not return phone calls.

The Claimant clearly was in noncompliance with the Work First attendance requirements, and while her claim of no day care was the purported good cause reason, the Claimant's actions do not support a good cause basis for her non attendance. Based upon the evidence presented at the hearing, it is found that the Claimant did not apply for day care so that she could attend Work First. This finding is based on the fact that it is most unlikely that the Department would have no record of three day care applications claimed to have been filed by the Claimant. While the Department may from time to time lose applications, such was not demonstrated to be the case in this matter.

The finding that no day care application was filed was also based upon the fact that even though the Claimant had not heard from the Department regarding her alleged day care application, the Claimant did not come in and attempt to straighten things out with either the Department or the Work First program. The Claimant understood the sanction for failure to obtain day care, and non attendance at the Work First program and that her failure to arrange to attend the Work First program would result in her case closure.

Based on the evidence presented, the Department correctly determined no good cause existed, based on the information available to it at the triage. The Department considered the Claimant's non attendance for the period 7/15 through 7/21 2011. The fact that no day care application was registered in the DHS system, when the Claimant had from June 30, 2011, the date of her first triage, through the date of her second triage coupled with the fact that the Claimant did not check on her alleged application and straighten out her day care issues indicates the Claimant did not fulfill the steps to allow her to attend work first and keep her cash assistance active. Overall the evidence does not support good cause for non attendance. Based upon these circumstances, the Department had no choice to find noncompliance with the attendance requirements and no good cause.

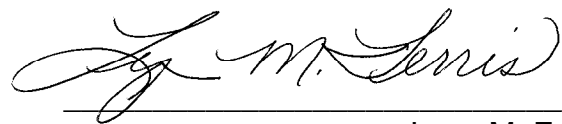
The Department properly complied with Department policy regarding the requirements regarding triages and the finding of no good cause for noncompliance with the Work First attendance requirements. BEM 233A.

The Claimant did not present facts or circumstances at the hearing which would support a finding of good cause, which would excuse her from attending the Work First program. A person facing sanction for noncompliance cannot sit back and do nothing and fail to return phone calls from Work First. Thus, it must be found that the Department correctly closed the Claimant's FIP cash assistance case and properly imposed a 3 month sanction for noncompliance with work related activities.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department correctly closed the Claimant's cash assistance and FIP case and correctly imposed a three (3) month sanction closing the Claimant's case for noncompliance with work related activities for non-attendance at the Work First program without good cause.

Accordingly, the Department's determination is AFFIRMED.



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

2011-47621 /LMF

Date Signed: September 22, 2011

Date Mailed: September 22, 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.

LMF/hw

cc:

