

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-49287
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: September 26, 2011
Wayne County DHS (17)

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 26, 2011. The claimant appeared and testified. [REDACTED], JET Case Manager, appeared on behalf of the Department. [REDACTED] appeared as an interpreter for the Claimant.

ISSUE

Whether the Department properly closed the Claimant's FIP cash assistance case for noncompliance 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 and his spouse were assigned to attend the Work First program on two occasions at which time they were deferred pending a review by the Department Medical Review Team (MRT) review.
2. The MRT on both occasions did not defer the Claimant and found him able to attend Work First. The MRT second review found the Claimant not deferred but acknowledged the Claimant's restrictions. Exhibits 3 and 4.
3. The Department issued a Notice of Non Compliance dated August 4, 2011 scheduling a triage on August 15, 2011 stating the reason for noncompliance as no participation in required activity. Exhibit 1.

4. The Department and the Claimant met for a triage (referred to by the Department as a duage) pursuant to a Notice of Non Compliance on August 15, 2011. The Department advised the Claimant that the MRT found him not disabled and assigned him to attend Work First orientation on August 16, 2011. Exhibit 1 and Exhibit 2.
5. The Claimant did report for orientation as required by the Department but was told he could not attend and was sent away by the Work First program with a medical form, as the Work First program was unwilling to let the Claimant attend as they believed he was sick.
6. The Claimant's caseworker did not advise the Work First program that the Claimant had not been deferred from attending Work First by MRT after a medical review.
7. The Claimant had the medical form given to him by Work First completed by his doctor (who examined him on the date of the orientation) and returned the form to the Department. The Department also provided an additional medical evaluation to the Department dated 9/2/11.
8. The Department closed the Claimant's case on August 31, 2011

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 233 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 Department closed the Claimant's case in error. As a result of the Department not advising the Work First program that the Claimant had not been deferred, the Work First program would not allow the Claimant to attend the program as he claimed he was too ill to attend orientation. The Claimant attempted to attend and also provided a completed medical form given to him by the Work First program.

The question under these facts is whether on August 16, 2011, the orientation date, the Claimant had good cause not to attend Work First. The Claimant claimed on the date of orientation that he was ill and was turned away by the work first program. Under these facts, the Department cannot close his FIP case without first inquiring as to whether there was good cause for non compliance for failing to attend orientation. Under the facts presented, the Department did not meet its burden of proof as it did not independently determine prior to case closure whether the Claimant had good cause not to attend Work First on August 16, 2011. This conclusion is also required as the Work First program sent the Claimant away rather than allowing him to attend orientation, in part because the Department did not advise the Work First program that the Claimant was not deferred by MRT.

The question also remains as to whether the Claimant had good cause not to attend orientation. As the Claimant claimed he could not attend because he was ill and backed that claim up with the new medical information form he was requested to provide by work first, the Claimant demonstrated good cause not to attend orientation. Given this conclusion, the Department was required to conduct a triage and determine whether good cause existed not to attend orientation and having failed to do so, cannot properly close the Claimant's FIP case.

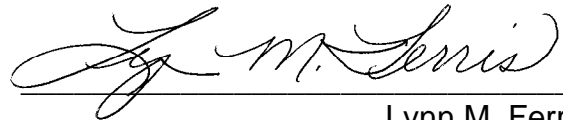
Based upon the forgoing analysis, the Claimant's FIP case was closed in error.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law the Department closed the Claimant's FIP case in error and its decision is REVERSED.

Accordingly it is ordered:

1. The Department shall initiate reinstatement of the Claimant's FIP case retroactive to the date of closure.
2. The Department shall issue a supplement to the Claimant for any FIP benefits the Claimant was otherwise entitled to receive retroactive to the date of closure.
3. If the Department imposed a sanction for noncompliance as a result of the 8/31/11 FIP case closure, the Department shall initiate removal of the sanction from the Claimant's case record.
4. The Department may assign the Claimant to attend the Work First program.



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

Date Signed: October 6, 2011

Date Mailed: October 6, 2011

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.

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- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/hw

cc:

