

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201111338
Issue No: 1038, 3029
Case No: [REDACTED]
Hearing Date:
January 20, 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 claimant's request for a hearing. After due notice, a hearing was held on January 20, 2011. The Claimant appeared and testified. Micheal Fritz, FIM and Doris Davis, Case Manager appeared on behalf of the Department.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and 12 month sanction upon the claimant for noncompliance with work-related activities?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant was a FIP cash assistance and Food Assistance (FAP) recipient in Wayne County.
- (2) The Claimant's FIP case closed due to a third non compliance and sanction pursuant to a Notice of Non Compliance, dated June 30, 2010,

and the Claimant was removed from her FAP group when a finding of no good cause was made. Exhibit 2

- (3) The Claimant did not dispute the finding of no good cause, but disagreed with the 12 month closure of her FIP cash assistance.
- (4) The Claimant never had a second sanction imposed finding her in non compliance for a triage which occurred, September 18, 2008.
- (5) The Department agreed at the hearing that the finding of no good cause due to a case note of September 18, 2008 was incorrect and there was no sanction applied at that time. Exhibit 1
- (6) At the triage held July 14, 2010, the Claimant was advised by the Department that her case would close for three months, but instead it was closed for a 12 month period contrary to what she had been told after the triage was concluded.
- (7) The Claimant missed Work First for one and a half weeks when her car was impounded while her husband was driving the vehicle. The Claimant did not call the Work First program regarding her absence and conceded no good cause finding triage result for the triage held July 14, 2010.
- (8) The Department incorrectly counted the September 18, 2008 triage outcome incorrectly as a second sanction event and her FIP case should not have been closed for 12 months and she should not have been removed from her FAP case for 12 months.
- (9) The Claimant's three month sanction for Work First non compliance as a result of the July 14, 2010 triage ended December 31 2010.

- (10) On December 13, 2010, claimant requested a hearing protesting the 12 month closure of her FIP case and removal from her FAP group. The hearing request was received by the Department on December 27, 2010.

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) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. 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).

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full time must be referred to the Jobs, Education and Training (JET) Program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called "noncompliance". BEM 233A defines noncompliance as failing or refusing to, without good cause:

...Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider..." BEM 233A p. 1.

Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the claimant. BEM 233A. The penalty for noncompliance is FIP closure. However, for the second occurrence of noncompliance on the FIP case, the Department can impose a 90 sanction for non compliance. BEM 233A.

After a careful examination of the documentary evidence provided by the Department, the Administrative Law Judge rules that the Department has failed to meet their burden of proof to demonstrate that the Claimant should have been terminated for a 12 month period. A review of the documents and work first case notes clearly demonstrated that the triage held most recently in July 2010 was only the second triage which imposed a sanction after a finding non compliance and the appropriate sanction penalty should have been three months. The Department representative also agreed that the earlier non compliance for the period September 18, 2008 did not occur and was in error. The Department's action closing the Claimant FIP case and removing her from her FAP group for a 12 month period is in error and must be reversed. The Claimant is urged to reapply as the 3 month period has already expired.

DECISION AND ORDER

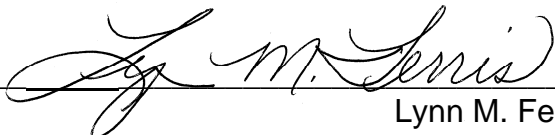
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant was in non compliance with the JET program and the action closing her FIP case and removing her from her FAP case was in error and is REVERSED.

Accordingly, it is ORDERED:

The Department shall correct the Department's action closing the Claimant's FIP

case and removing her from her FAP case for a 12 month period as a result of the July 2010 triage and indicate in its records that the sanction was the Claimant's second sanction for non compliance and that the closure was for a three month period which ended December 31, 2010.

The Department shall remove the September 18, 2008 sanction, from its records as it was erroneously included in the Department's record as a non compliance event, which imposed a sanction for non compliance with the work first requirements.


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

Date Signed: 02/01/11

Date Mailed: 02/03/11

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 mailing 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/dj

cc:

[REDACTED]