

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011 19474
Issue No: 1038
Case No: [REDACTED]
Hearing Date:
March 7, 2011
Wayne County DHS (35)

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 telephone hearing was held in Detroit, Michigan on March 7, 2011. The Claimant appeared and testified on her own behalf. [REDACTED]

[REDACTED] appeared on behalf of the Department.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and deny the Claimant's Cash assistance for noncompliance with employment or work-related activities and Work First.

FINDINGS OF FACT

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

1. The Claimant was a FIP Cash Assistance recipient.
2. The claimant's FIP case was improperly closed when a triage letter was not received by Claimant as it was sent to wrong address even though the Claimant had filed a change of address.
3. The Department acknowledged the error and met with Claimant to correct problem. The no good cause finding was removed and the Claimant filed a new application.
4. The Department agreed to reinstate the Claimant's FIP benefits upon the Claimant's return to Work First and agreed to supplement the Claimant for FIP benefits she should have received when her case improperly closed.
5. The claimant was assigned to work first orientation on January 31, 2011 and did not attend.
6. The Claimant attended work first orientation on February 28, 2011, and was late for the second day of orientation and was denied the right to attend on March 1, 2011. The Claimant acknowledged that she was late. Exhibit 1 and 3.
7. The Department denied the Claimant's application due to her failure to complete the Work First orientation.
8. The Department denied the Claimant's FIP application due to failure to participate and attend the Work First orientation by notice of case action dated March 3, 2011. Exhibit. 2
9. On December 17, 2010, the claimant requested a hearing regarding the closure of her FIP case. The request for hearing was received by the department 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.

However, a failure to participate can be overcome if the client has good cause. 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.

In Determining whether good cause has been demonstrated for non compliance with a JET requirement the standard to be applied is provided in BEM 233A page 3:

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. A claim of good cause must be verified and documented for member adds and recipients.

Based on the facts presented in this case, the Claimant was given numerous opportunities to attend the Work First program and understood that her participation was mandatory if she wanted to continue to receive FIP cash benefits and receive the supplements the Department had authorized due to the initial improper closure of the Claimant's FIP case. The department gave the claimant two opportunities in January and February 2011 to attend the Work First program orientation. On the first appointment date the claimant did not attend. On the second appointment date the claimant attended the first day and was late the second day and was refused admittance to orientation. The claimant failed to attend jet orientation because the claimant had to take the bus and was late. Tardiness, and being late to orientation generally, and specifically in this instance, is a factor that was within the Claimant's control and the claimant did not demonstrate good cause for failing to attend the work first orientation. When a FIP application is still pending and non compliance is noted there is no triage required and the FIP application is denied as required by policy. BEM 233A

Based upon these facts and circumstances the department's decision and denial of the Claimant's FIP application for failure to attend Work First Orientation is correct and must be upheld. Therefore, the undersigned must rule that the Department's denial of the Claimant's application as required by BEM 233A, is correct. The Claimant may reapply to receive FIP benefits and will be required to participate and attend the Work First program and re-attend orientation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the claimant failed to Participate in the Jobs, Education,

and Training program orientation without good cause and, therefore, the department's decision to deny the Claimant's FIP application was correct and is AFFIRMED.



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

Date Signed: 03/17/11

Date Mailed: 03/21/11

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:

