

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.: 2011-22619
Issue No.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: [REDACTED]
District: Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 [REDACTED]. The claimant appeared and testified. [REDACTED] Jet Coordinator and [REDACTED] Michigan Works appeared and testified on behalf of the Department.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and three month sanction closing the Claimant's FIP case and reducing the Claimant's FAP benefits 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. On [REDACTED], the Department issued a Notice of Case Action, which closed Claimant's FIP Cash Assistance case for a three month period beginning [REDACTED] and reduced her FAP benefits as a result of the Claimant's non compliance with work related activities. Exhibit 2

2. The Claimant was required to attend training through the Work First Program 20 hours per week.
3. The Claimant did not attend for the weeks beginning [REDACTED], [REDACTED], and [REDACTED] Exhibit 1
4. The Claimant was sent a letter on [REDACTED] advising her that the Work First program had not received her participation hours and advised that a triage would be scheduled if time sheets were not submitted. Exhibit 4
5. The Department sent the Claimant a Notice of Non Compliance dated [REDACTED] [REDACTED] and scheduled a triage for [REDACTED] Exhibit 3
6. The Claimant was sick with strep throat and was seen for medical treatment on [REDACTED] Claimant Exhibit 1.
7. A triage was held and the Claimant was found to be in non compliance as no good cause was shown.
8. This was the Claimant's first non compliance.
9. The Claimant did not attend the triage because she was ill.
10. On [REDACTED], prior to the triage, the Claimant turned in the timesheet for the week beginning [REDACTED]
11. On [REDACTED], after the triage was held, the Claimant turned in time sheets for week beginning [REDACTED]
12. No time sheets were provided by the Claimant for the weeks beginning [REDACTED] [REDACTED] and [REDACTED]

13. The Claimant requested a hearing [REDACTED] protesting the Work First triage result which closed her FIP cash assistance for 3 months and reduced her Food 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 (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R400.3101-3131. 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. However, for the first occurrence of noncompliance on the FIP case, the client can be excused. BEM 233A.

Furthermore, JET participants cannot be terminated from a JET program without first scheduling a "triage" meeting with the client to jointly discuss noncompliance and good cause. If a client calls to reschedule, a phone triage should be attempted to be held immediately, if at all possible. If it is not possible, the triage should be rescheduled as quickly as possible, within the negative action period. At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. BEM 233A.

If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

Before the Administrative Law Judge can review a proper good cause determination, there must first be a determination of whether the claimant was actually non-participatory with the hour requirements for the JET program.

Based on the record presented, the Claimant was found in non compliance for several weeks during which she was assigned to attend school and participate in a training program. The weeks in question were weeks beginning [REDACTED] and [REDACTED]. While the Claimant turned in time sheets before the triage for the week of [REDACTED] and after the triage for the week of [REDACTED], it still is clear that the Claimant was in non compliance for the two remaining weeks December [REDACTED] and [REDACTED] and that she did not demonstrate that she attended the training program during that period.

The Claimant did not attend the triage because she was sick but notwithstanding her illness she did not advise either the Department or the Work First Program of her illness so that the triage could either be postponed or held by telephone.

Based on evidence provided by the Department at the hearing it correctly determined that the Claimant was in non compliance and found no good cause. Even considering the time sheets that were turned in there were still two weeks remaining where no proof of attendance at the training program was provided by the Claimant.

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.

After a careful examination of the documentary evidence provided by the Department, and the Claimant, and the testimony of the witnesses the Administrative Law Judge has determined that the Department's finding of no good cause and the imposition of a three month sanction closing the Claimant's FIP Cash Assistance case and reducing her FAP benefits was correct and is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's determination of no good cause and its action imposing a three month closure of the Claimant's FIP case and reduction of the Claimant's FAP benefits is correct and is AFFIRMED.



Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 05/04/11

Date Mailed: 05/06/11

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:


Oakland County DHS (Dist #02)



Administrative

Hearings