

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011 27707
Issue No.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: May 5, 2011
District: Wayne County DHS (18)

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 May 5, 2011. The claimant appeared and testified. [REDACTED] Jet Coordinator, [REDACTED] Case Manager, [REDACTED] FIM, and [REDACTED] Work First Coordinator 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. The Claimant was an ongoing recipient of FIP Cash Assistance.
2. On March 24, 2011, the Department issued a Notice of Case Action which closed her FIP Cash Assistance case for a three month period, beginning May 1, 2011, and reduced her FAP benefits as a result of the Claimant's non compliance with work related activities. Exhibit 2

3. The Claimant was assigned to attend Work First and was required to provide weekly proof of job search requirements.
4. The Claimant did not provide job search records for a two week period, beginning January 24, 2011 through February 4, 2010. The Claimant also did not call the Work First program to explain her absence. Exhibit 3, 4 pages.
5. Prior to this period, the Claimant had met with the Work First representatives in December 2010, and was advised that several of her weekly job search reports for December had not been turned in weekly and that her community service report was not turned in on time. Exhibit 3
6. None of the case notes presented documented any health related reasons which supported the Claimant's non attendance at Work First, or a reason why the Claimant did not provide job search paper work in a timely manner. Exhibit 3
7. The Claimant was sent a notice of Non Compliance on March 14, 2011, scheduling a triage on March 24, 2011. Exhibit 1
8. Prior to the triage and during the period when no job search records were turned in, the Claimant did not seek a medical deferral or provide proof that she was unable to attend the program or that her daughter was ill.
9. The Claimant testified that she did not attend the triage because her daughter was ill, the claimant did not provide any proof of her daughter's illness at the time.
10. The Claimant testified that she had been ill on and off during the period.
11. The Claimant provided evidence that she was seen by an emergency room, on March 20, 2011, for brochospasm and dehydration. At the time of her discharge, her condition was noted as satisfactory. Claimant Exhibit 1.
12. The Claimant was also seen on March 28, 2011 by her doctor.
13. A triage was held and the Claimant was found to be in non compliance without good cause and a three month sanction was imposed by the Department closing her FIP case and reducing her FAP benefits. A Notice of Case action was issued effective March 24, 2011. Exhibit 2.
14. The Claimant requested a hearing on March 30, 2011, protesting the closure of her FIP case indicating she had been ill since January 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 (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 January 24 and January 31, 2011. The Claimant was required to turn in time sheets before the triage for these weeks and never turned them in. Additionally the Claimant did not show up for a two week period. Based upon the evidence presented at the hearing it is clear that the Claimant was in non compliance for the two weeks for not turning in her proof of work first participation activities.

The Claimant did not attend the triage because her child was sick but notwithstanding did not advise either the Department or the Work First Program of her child's illness or request a postponement or phone triage. More importantly, she did not present any proof at the hearing that her daughter was ill.

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 doctor's records submitted by the Claimant to substantiate her non attendance at the triage, these records do not support her failure to attend the triage or seek a phone triage, or her daughter's illness. There were no proofs submitted which would excuse the Claimant's non attendance at work first or support the Claimant's failure to turn in two weeks of job search records.

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:

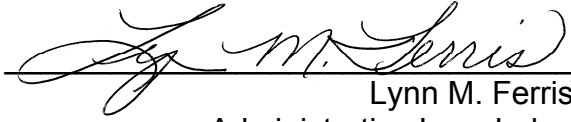
Good cause is a valid reason for noncompliance with employment and/ or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients.

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.

After the sanction period is concluded, the Claimant may reapply in the third month of sanction and may also seek a deferral from attending Work First, at that time, but will be required to substantiate her medical reasons for deferral with an appropriate doctors' statement(s).

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 in accordance with Department policy and is AFFIRMED.


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

Date Signed: 05/24/11

Date Mailed: 05/26/11

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:

