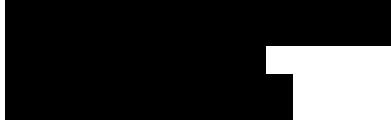


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-2843
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 22, 2010
Macomb County DHS (20)

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 November 22, 2010. The claimant appeared and testified. Geraldine Monroe, Jet Case Manager appeared on behalf of the Department.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and three 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 FAP (food assistance) recipient in Oakland County.
2. After a withdrawal of a hearing request held for a hearing on August 30, 2010, the Department gave the Claimant a Form 2444 WorkFirst Appointment Notice assigning her to attend WorkFirst on September 7, 2010 at 12:30 pm. Exhibit 1
3. The Claimant received the appointment notice and understood she had to attend the WorkFirst appointment. Exhibit 1

4. The Claimant received the appointment notice but failed to attend or appear at the WorkFirst program on the appointment date and time. At the hearing the Claimant testified that she was ill and could not attend.
5. At the hearing, the Claimant provided a letter indicating that on August 30, 2010 she was seen at the hospital for acute bronchitis. The claimant was advised to follow up with a primary care physician the next day. Claimant Exhibit 1.
6. The Claimant did not appear eight days later for the WorkFirst appointment on September 7, 2010.
7. The department issued a Notice of Noncompliance scheduling a triage on October 7, 2010 at 1:00pm. Exhibit 2
8. The Claimant did not establish good cause at the triage or at the present hearing.
9. The Department issued a Notice of Case Action on October 8, 2010 closing her FIP cash assistance case November 1, 2010 for 3 months and decreasing her FAP benefits removing the Claimant from the group due to her failure to establish good cause for her failure to attend the WorkFirst Program as scheduled. Exhibit 3
10. This was the second sanction imposed on the Claimant and the Department's determination that a 3 month closure should be applied to the Claimant's FIP case was correct.
11. The Claimant requested a hearing on October 12, 2010 protesting the closure of her FIP case for 3 months and reduction of her FAP 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 Assistance 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 requirements for the JET program. Based on the record presented it was established that the Claimant had not been attending WorkFirst and missed the appointment that was scheduled for her on September 7, 2010.

The Claimant had been given another chance to attend WorkFirst when she signed her hearing request withdrawal on August 28, 2010 and was given her appointment notice at the time she signed the withdrawal to attend WorkFirst on September 7, 2010. On August 30, 2010 the Claimant went to a doctor with acute bronchitis. Claimant Exhibit 1

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A full eight days later, the Claimant did not attend her WorkFirst appointment testifying she was ill.

The testimony offered by the Claimant alone also did not support a basis for a finding of good cause. 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.

While illness may be a reason for good cause and it may be out of one's control and thus potentially a basis for good cause, the basis for the good cause must be verified and documented. The Claimant did not provide this type of documentation.

After listening to all the testimony and considering the proofs presented by the Claimant, it is determined that the Claimant did not establish good cause. The Claimant understood that she had an appointment and did not show up. Her evidence of a doctor's visit eight days earlier did not establish good cause not to attend her WorkFirst appointment. Had the Claimant provided a doctors letter documenting that she was too ill to attend Work First on September 7, 2010 and if she had been seen by a doctor on that date of her Work First appointment confirming her illness, the finding of no good cause would not have been correct. Based on the documentary evidence presented and the record as a whole, it must be found that her claim of illness is not substantiated by a hospital record 8 days earlier.

The Department correctly concluded that the Claimant did not establish good cause at the triage and it is found that the Claimant did not do so at the hearing. Therefore, the undersigned must rule that the Department's finding of no good cause and the imposition FIP case closure and FAP benefit reduction for three months was correct and must be affirmed. BEM 233A.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's finding of no good cause and the imposition of a 3 month closure of the Claimant' FIP and reduction of the Claimant's FAP benefits is AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/8/2010

Date Mailed: 12/8/2010

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.

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