

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011 31799
Issue No: 1038
Case No: [REDACTED]
Hearing Date: June 2, 2011
Macomb County DHS (12)

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 June 2, 2011. The Claimant appeared and testified, and her spouse, [REDACTED] appeared as a witness. Tanisha Taul, 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 non-compliance 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's FIP cash assistance case was closed due to non compliance with work related activities on May 1, 2011. The Claimant's food assistance benefits were also reduced. Exhibit 1.

2. The Claimant did not receive a notice of noncompliance for failure to comply with Work First requirements. The notice of noncompliance was not produced by the Department at the hearing.
3. The Department did not conduct a triage prior to closing the claimant's FIP case and reduction of her Food Assistance.
4. The claimant's hearing request was received by the Department prior to April 11, 2011, and her FIP case should not have closed and her food assistance should not have been reduced as the claimant requested that her benefits continue pending the administrative hearing.
5. The claimant's FIP case was closed on the basis of the Jet Case Manager's report, which was not provided by the Department at the hearing.
6. The claimant requested a hearing on April 2, 2011. The claimant's hearing request was received by the Department on April 8, 2011. The Claimant's hearing request protests the closure of her cash assistance case and reduction of 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 (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. 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. At these triage meetings, good cause is determined

based on the best information available during the triage and prior to the negative action date. **Good cause must be considered, even if the client does not attend.** BEM 233A.

In the current case, the Department's procedures towards overcoming claimant's non-participation were inadequate. Based on the testimony of the Claimant a legitimate question was raised regarding whether a notice of non compliance was sent to the Claimant. The Claimant testified that she did not receive a notice. Most importantly, the Department representative advised that no triage was held and that the Claimant's case was closed on the basis of a Jet Case Manager's report.

The fact is that BEM 233A requires the Department to hold a triage and make a good cause determination, even if the claimant does not show up for the triage. The Department has presented no evidence that a good cause determination was ever made and admitted that no triage was held. The Hearing Summary, states a conclusion that "The case was put into negative action because of non compliance with employment related activity, Customer failed to follow through with the JET assignment." No mention of an independent good cause determination is made and thus it is found that the Department did not make an individual assessment of good cause at a triage as no triage was held. Therefore, as no independent evidence has been offered to show that a triage was held and a good cause determination was made, this is in clear error and requires that the Department's action closing the claimant's case and reducing the Claimant's FAP benefits be reversed.

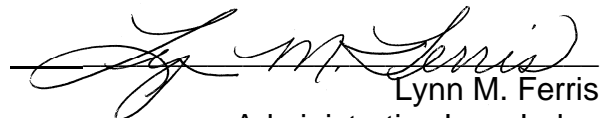
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was in error when it

failed to conduct a triage and make a good cause determination. The Department's decision in the above-stated matter is, hereby, REVERSED.

Accordingly, it is ORDERED:

1. The Department shall reopen claimant's FIP case retroactive to the date of case closure and reinstate the Claimant to her FAP group retroactive to May 1, 2011.
2. The Department shall issue a new notice of non compliance and schedule and hold a triage to determine if the Claimant has good cause for non compliance.
3. The notice of non compliance issued by the Department shall include the dates of the non compliance the Department will consider at the triage.
4. The Department's negative action for noncompliance, effective 5/1/11, shall be deleted pending the outcome of the triage ordered by this decision.



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

Date Signed: 06/06/11

Date Mailed: 06/07/11

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:

