

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011 39525
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: July 25, 2011
Wayne County DHS (43)

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 from Detroit, Michigan on July 25, 2011. The claimant appeared and testified. [REDACTED], Jet, Case Manager, 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 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 FIP cash assistance recipient.
2. The Claimant was sent a Notice of Non Compliance with work related activities on May 4, 2011, scheduling a triage for May 10, 2011.
3. A triage was held on May 10, 2011, and the Claimant was in attendance.
4. The Claimant provided a doctor's note for September 2010, indicating that she was having pregnancy complications. The Claimant did not bring the Doctor's note to the hearing.

5. The triage involved the Claimant's non-attendance at the Work First facility program at Goodwill Industries, for the period December 2010 and January 2011.
6. The Claimant's attendance hours were short the number of required hours.
7. The Department closed the Claimant's case and imposed a three month sanction on the Claimant's FIP case on June 1, 2011.
8. The Claimant requested a hearing on June 20, 2011 protesting the closure of her FIP cash assistance case.

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.

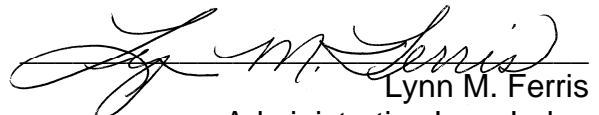
Based on the record presented, the Claimant was found in non-compliance during the months of December 2010 and January 2011, when she was assigned to attend and participate in the Work First program. The Claimant testified that she produced a doctor's note for September 2010 indicating that she had pregnancy complications. This was not the period of non-compliance involved in the triage. The Claimant did not have a doctor's note for the periods of her non-compliance during December and January. The Claimant was at the triage and was found to be in non-compliance with work related activities without good cause.

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. A doctor's note in September 2010 is not good cause for failure to attend Work First in December, 2010 and January 2011. Further, the Claimant did not bring the note to the hearing. There were no proofs submitted which would excuse the Claimant's non-attendance at Work First, or support the Claimant's failure to attend the program. While medical reasons may be good cause for non-attendance, the proofs presented did not establish good cause for the Claimant's non-attendance.

After a careful examination of the documentary evidence provided by the Department, 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 is 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 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: July 28, 2011

Date Mailed: July 29, 2011

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/hw

cc:

