

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201142516
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 15, 2011
Macomb County DHS (50)

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 August 15, 2011. The Claimant appeared and testified. [REDACTED], Jet Case Manager, appeared on behalf of the Department.

ISSUE

Whether the Department properly sanctioned and closed the Claimant's FIP case and reduced the Claimant's FAP benefits for non compliance with work related activities.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing FIP recipient and was assigned to attend the Work First program.
2. The Claimant was sent a notice of non compliance, as she failed to turn in her training log for March 2011, which were to be signed by her professors, demonstrating that she was attending nursing classes,. Exhibit 1.
3. The Claimant did not attend the triage, as she did not receive the notice of non compliance.

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4. The Claimant was told of the triage by the Work First program, but reported to Work First location rather than the DHS offices. The Claimant arrived after the triage had been conducted.
5. After the triage was held the Claimant contacted the work first program and was told by the Work First program that the triage outcome could not be changed, even if she submitted the proof of her class attendance.
6. The Triage was held on June 9, 2011, and a finding of no good cause was made for failure to provide proof that she attended training in March 2011 and submit her school attendance logs.
7. The Claimant was having car trouble during this period.
8. The Claimant is required to attend training 16 hours per week.
9. The record was left open until noon Tuesday August 16, 2011 for the Claimant to submit proof of attendance at training program (nursing program) for March 2011.
10. The Claimant faxed attendance sheets, which were signed by her professors, for March 2011 indicating that she attended classes. Claimant Exhibit 1.
11. The Department issued a notice of case action, which sanctioned and closed for one year, the Claimant's FIP case as this was her third non compliance. Exhibit 4.
12. The Claimant requested a hearing on June 27, 2011 protesting the closure of her FIP cash assistance.

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"), formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq.* and Michigan Administrative Code Rules 400.3101-3131. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A All Work Eligible Individuals ("WEI") are required to participate in the development of a Family Self-Sufficiency Plan ("FSSP") unless good cause exists. BEM 228 As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. BEM 233A The

WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program ("JET") or other employment service provider. BEM 233A 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. BEM 233A Failure to comply without good cause results in FIP closure. BEM 233A The first and second occurrences of non-compliance results in a 3 month FIP closure. BEM 233A The third occurrence results in a 12 month sanction.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A In addition, a triage must be held within the negative action period. BEM 233A A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A.

In this case, the Claimant testified credibly that she did not receive the Notice of Non Compliance. Because she did not receive the notice of non compliance before the date of the triage, she went to the wrong location and missed the triage. Additionally, because the Claimant did not receive the notice of non compliance, the Claimant was not advised that she had until June 6, 2011 to demonstrate good cause for her non compliance. Exhibit 1.

Good cause is demonstrated when factors outside of the control of the non compliant person causes them to be absent, in this case the fact that the Claimant never received the notice of non compliance did not afford her an opportunity to demonstrate good cause and, the Claimant had legitimate transportation difficulties at the time with her car, which made it difficult to get to the work first offices.

After the hearing was completed, but before the record was closed, the Claimant submitted proof that she was in attendance at her nursing classes during March 2011. Claimant Exhibit 1. Because the Claimant did not receive notice of non compliance she was not afforded an opportunity to present this information and demonstrate good cause and thus her case was closed in error.

DECISION AND ORDER

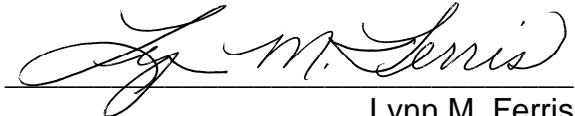
The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department's closure must be reversed as the Claimant did not receive the Notice of Noncompliance and was not afforded an opportunity to provide proof of good cause, and compliance with Work First participation requirements and

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therefore her FIP case was closed in error. The Department's determination is therefore REVERSED.

Accordingly it is ORDERED:

1. The claimant's FIP case shall be reopened and reinstated retroactive to the date of closure, July 1, 2011.
2. The Department shall issue a supplement tot the Claimant for any FIP benefits she is otherwise entitled to receive, in accordance with Department policy.
3. The Department shall reinstate the Claimant to her FAP group retroactive to the date of closure (July 1, 2011).
4. The Department shall issue a supplement to the Claimant for any FAP benefits she is otherwise entitled to receive, in accordance with Department policy.
5. The Department shall remove from the Claimant's record, and the Department's records, the 12 month sanction which it imposed for non compliance with work related activities arising out a triage held June 9, 2011.
6. The Department shall schedule and conduct a new triage regarding the Claimant's Work First participation, and shall determine if good cause exists for non compliance with the Work First requirements. The notice of non compliance shall advise the Claimant of the particular incidents of non compliance with specificity, so that the Claimant is afforded an opportunity to demonstrate good cause.



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

Date Signed: August 17, 2011

Date Mailed: August 17, 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.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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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