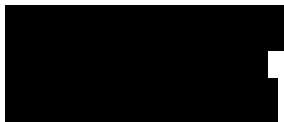


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201142809
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 10, 2011
Wayne County DHS (35)

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 10, 2011. The Claimant appeared and testified. [REDACTED], FIM and [REDACTED], Jet Coordinator appeared on behalf of the Department.

ISSUE

Whether the Department properly imposed a three month sanction for non compliance with work related activities without good cause.

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 recipient of FIP, cash assistance.
2. The Claimant's FIP case was closed on March 31, 2011 and the Claimant received a 3 month sanction for non compliance with work related activities, arising out of the Work First program.
3. The Claimant was sent a notice of non compliance on March 10, 2010 scheduling a triage for March 15, 2011.
4. Prior to receiving the Notice of non compliance, the Claimant spoke to her work first worker and advised that she had injured herself and that she was unable to attend

work first. She was not asked to provide medical substantiation of her injury by the work first program..

5. The Claimant did not receive the notice of non compliance until the afternoon of the triage (when she arrived home it was in her mail). The Claimant did not attend the triage because she did not receive the notice in time to attend.
6. The next day the Claimant called the contact person listed on the notice, and subsequently called several times, but did not receive a return call.
7. The Claimant had a torn ACL, had a leg brace and was on crutches. The Claimant's doctor issued her authorization to return to work with restrictions for 8 weeks on March 25, 2011. Exhibit 3.
8. The Claimant was required to have surgery for the ACL tear in July 2011. Exhibit 4.
9. A triage was held and the Claimant was found in non compliance and her FIP case was closed for 3 months for non compliance without good cause.
10. The Claimant requested a hearing on April 29, 2011 protesting the closure of her FIP 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 ("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

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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 was not given an opportunity to attend the triage that was scheduled for her to demonstrate good cause for her lack of attendance. The Claimant did not receive the notice in time to attend, and thus was deprived of an opportunity to present her case for good cause. After receiving the notice of triage, the Claimant called the contact person listed on the notice of non compliance several times but did not receive a return phone call. Under these circumstances, the Claimant is entitled to a triage to present her documentation for her injury and any supporting medical information that supports her medical condition and inability to work or work with limitations. The Department, through the Work First program did not request a Medical Needs form from the Claimant, even after the Claimant was contacted by the Work First contractor, and advised them that she had injured herself and that was why she could not attend.

Based on the foregoing analysis the Department's closure of the Claimant's FIP case was incorrect, as the Claimant was denied a triage as she did not receive timely notice.

DECISION AND ORDER

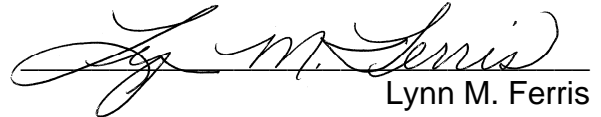
The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the claimant did not receive notice of the triage until after the triage had been held and therefore was denied an opportunity to present good cause. Therefore the Department's closure of the Claimant's FIP case is Reversed.

Accordingly it is ORDERED:

1. The Department shall reopen the Claimant's FIP cash assistance case retroactive to the date of closure, March 31, 2011.
2. The Department shall schedule and conduct a triage regarding the Claimant's non compliance due to her injury, which occurred on February 14, 2011.

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3. The Department shall delete from the Claimant's case record the sanction for non compliance it imposed on the Claimant arising out of the March 15, 2011 triage.
4. The Department shall issue A FIP supplement to the Claimant for any benefits she was otherwise entitled to receive if it finds that the Claimant has demonstrated good cause at the triage ordered by this decision.


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.

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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cc:

