

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

IN THE MATTER OF:



Reg. No.: 2011-49141
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: December 8, 2010
Wayne County DHS (15)

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 December 8, 2010. The claimant appeared and testified; [REDACTED] in also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits due to Claimant's alleged noncompliance with Jobs, Education and Training (JET).

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 an ongoing FIP benefit recipient.
2. The Department determined the Claimant was noncompliant with Work First and scheduled a triage.
3. The Department scheduled a triage but did not conduct the triage because the Claimant did not appear for the triage.
4. The Department found the Claimant had no good cause with work related activities solely because she did not appear at the triage.

5. The hearing file contained only a one sentence hearing summary and which stated: "Failure to participate with JET program and failure to attend triage."
6. The Claimant did not attend the meeting called as a triage.
7. DHS failed to hold a triage meeting because of Claimant's lack of attendance at the triage, and presumed that Claimant was noncompliant with Work First participation.
8. At the meeting scheduled as a triage for the Claimant, the Department did not consult any Work First records nor were case notes reviewed to determine good cause, and no discussion was had with the Work First program representative who attended.
9. DHS terminated Claimant's FIP benefits on June 30, 2011 and imposed a three month sanction for non compliance with Work First requirement.
10. The Claimant requested a hearing on August 17, 2011 protesting the closure of her FIP case as she received no notice to attend a triage.

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

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A at 1. Federal and state laws require each work eligible individual (WEI) in a FIP group to participate in Jobs, Education and Training (JET) Program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. *Id.* These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.*

JET is a program administered by the Michigan Department of Energy, Labor and Economic Growth through the Michigan Works! Agencies. *Id.* The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *Id.* The WEI is considered non-

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compliant for failing or refusing to appear and participate with JET or other employment service provider. *Id* at 2.

The only evidence that DHS presented to establish Claimant's noncompliance was the testimony of the caseworker who attended the meeting when a triage was scheduled. The DHS caseworker clearly stated that no triage was held or required because the Claimant did not show up at the scheduled meeting. The caseworker further confirmed that no Work First records, or case notes were reviewed to determine good cause and no discussion was had with the Work First program representative who attended.

The undersigned cannot find that Claimant failed to meet a JET participation requirement without knowing what the JET requirements were, and because none were considered or presented by the Department. The hearing file contained only a one sentence hearing summary which stated: "Failure to participate with JET program and failure to attend triage."

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 at 7. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. *Id*.

The DHS evidence of noncompliance was not presented as DHS mistakenly understood that it was not necessary to conduct a triage and determine noncompliance and good cause if the Claimant did not appear for the scheduled triage. In the present case, DHS concedes not holding a triage solely based on Claimant's absence from the triage meeting. This is clear error. A triage must always be held regardless of the Claimant's nonattendance and the evidence of noncompliance and whether the non-compliance was based on good cause must be determined in all cases. *Id*.

The Department did not present evidence to demonstrate compliance with Department policy referenced herein requiring a triage be held, or to establish noncompliance with the Work First program without good cause. It has not met its burden of proof to support its actions. As the Department did not establish that Claimant was noncompliant with JET participation and did not conduct a triage, the Department's determination is REVERSED. Accordingly, it is found that DHS improperly terminated Claimant's FIP benefits.

DECISION AND ORDER

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The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP case effective June 30, 2011 and its determination is REVERSED.

Accordingly it is ORDERED:

1. The Department shall initiate reinstatement of the Claimant's FIP benefits back to the date of closure June 30, 2011.
2. The Department shall supplement Claimant for any FIP benefits not received as the result of the improper FIP case closure.
3. The Department shall remove any disqualification sanction related to the improper finding of noncompliance from Claimant's disqualification history imposed on the Claimant with the June 30, 2011 case closure.
4. The Department shall initiate the return the Claimant to the Work First program.


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

Date Signed: October 6, 2011

Date Mailed: October 6, 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.

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