

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-52360
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: October 10, 2011
Wayne County DHS (76)

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 October 10, 2011. The claimant appeared and testified; [REDACTED], Family Independence Manager, and [REDACTED], FIS, appeared and testified on behalf of the Department of Human Services (DHS).

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 Claimant was sent a Notice of Non Compliance on 7/1/11 to attend a triage scheduled on July 8, 2011. Exhibit 1.
3. The Claimant received the Notice of Non Compliance. The Claimant attended the triage.
4. At the triage the Claimant was given a Form 754 (onetime forgiveness) and was to return to Work First on July 8, 2011, and was to provide the Work First program school attendance records and information. Exhibit 2.

5. The Claimant understood she was to provide weekly attendance records and testified at the hearing that she did so for the weeks beginning July 18, 2011, July 25, 2011 and August 1, 2011, August 15, 2011, August 22, 2011 and thereafter. Claimant Exhibit 1.
6. The Claimant attended Work First as required on 7/8/11 and provided the requested information as a required by the triage results. Exhibit 2.
7. At the hearing the Claimant provided duplicates of the weekly attendance records for weeks beginning 7/25, 8/1, 8/15, 8/22, 8/29, 2011. Claimant Exhibit 1.
8. The Claimant provided time sheets to the Work First program every Tuesday (with the permission of her Work First caseworker/manager) because her school schedule was from 6pm to 11pm Monday through Thursdays and she could not provide attendance sheets until Tuesday.
9. The Claimant was found by the Work First program to have not provided attendance sheets for the week ending 7/22/11 and on 8/5/11 had not provided time sheets for several weeks. Exhibit 2.
10. The Department sent a Notice of Case Action on 8/23/11. The Notice of Case Action closed the Claimant's FIP cash assistance case on 10/1/11 and imposed a 90 day sanction. Exhibit 3.
11. The Claimant requested a hearing on 8/30/11 protesting the closure of her FIP cash assistance case due to non compliance with work related activities.

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

The evidence presented by DHS consisted of business records documenting Work First program entries. No individual with first hand knowledge of the triage outcome testified from the Department or the Work First Program. The form 754 requirements were not documented as the completed form was not provided as part of the record other than in the case notes prepared by the Work First program. No witness for the Department who attended the triage was present at the hearing.

The claimant credibly testified that on 7/8/11 she reported to Work First with the required attendance sheets and other information regarding her classes as required after the triage. She further credibly testified that after 7/8/11 she provided her weekly attendance records to the Work First program and specifically to her assigned Work First caseworker/manager. The Claimant also brought copies of time sheets to the hearing to document her weekly school attendance which she had obtained again from her school because the originals were given to the Work First program when she handed them in initially. Claimant Exhibit 1. The Claimant indicated that she turned her sheets in every Tuesday with the permission of her assigned Work First caseworker/manager.

It is clear the Claimant complied initially with the requirements imposed by the Department after the triage. The due date to demonstrate compliance, based upon the case notes was 7/8/11. However, because no one with first hand knowledge with the events of the triage attended the hearing, it could not be determined whether the Form 754 had imposed other requirements beyond what the case notes provided to demonstrate compliance with the triage outcome. After 7/8/11 the Work First program found the Claimant did not submit attendance sheets and use that as the basis to close her case. The evidence provided at the hearing did not support the conclusion made by the work first program that the Claimant did not submit attendance sheets. Based upon the evidence presented at this hearing, it must be found that the Department should have conducted another triage to determine if the Claimant was in non compliance without good cause for the period after July 8, 2011.

The applicable policy provides:

If the client **accepts** the offer to comply and agrees with the department's decision of noncompliance without good cause, use the first check box on the DHS-754 and document compliance activities. Include the number of hours of participation the client must perform to meet the compliance activity requirement. Advise the client that verification of the compliance is required by the due date on the DHS-754. BEM 233A, page 9.

In this case because no form 754 was produced as evidence and the Claimant complied with the requirements required by the program on 7/8/11, it is found that the Claimant complied with the terms of the 754 and that any subsequent non compliance for failure to turn in attendance records required that a triage be held to determine good cause for non compliance. Additionally, because no triage was held the Department improperly closed the Claimant's case as it did not conduct a triage. BEM 233A page 7.

Accordingly, based upon the foregoing analysis, it is found that DHS improperly terminated Claimant's FIP benefits.

DECISION AND ORDER

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 October 1, 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 (October 1, 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 initiate and send a Notice of Non Compliance and shall schedule a triage arising out of the Claimant's alleged non compliance with work related activities after July 8, 2011. The Department shall state with specificity in the notice the reason(s) for non compliance and include the dates of non compliance.
4. The Claimant's attendance sheets introduced at the hearing (Claimant's Exhibit 1) shall be considered by the Department at the triage ordered by this Decision.



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

102607197/CG

Date Signed: October 17, 2011

Date Mailed: October 17, 2011

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/ hw

cc:

