

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

IN THE MATTER OF:



Reg. No.: 2011-8083
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 10, 2011
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Clinton Township, Michigan on Thursday, February 11, 2011. The Claimant appeared and testified. Charles Forster appeared on behalf of the Department.

ISSUE

1. Whether the Department properly terminated the Claimant's child care assistance ("CDC") benefits?
2. Whether the Department properly terminated the Claimant's cash assistance ("FIP") for the failure to participate in the Jobs, Education, and Training ("JET") program without good cause?

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 a FIP and CDC recipient.
2. On October 18, 2010, the Claimant case was assigned for triage due to JET non-compliance. (Exhibit 1)
3. On October 19, 2010, the Department sent a Notice of Non-compliance to the Claimant informing her of the scheduled triage on November 4, 2010. (Exhibit 2)

4. During the triage on November 4th, the Claimant stated reason for non-compliance was due to transportation problems.
5. The Department determined that because the Claimant failed to previously call regarding any transportation problems, good cause was not established. (Exhibit 3)
6. A three month penalty sanction was imposed.
7. On November 5, 2010, the Department pended the Claimant's case for closure and notified the Claimant of the case action. (Exhibit 4)
8. On November 15, 2010, the Department received the Claimant's timely written request for hearing.

CONCLUSIONS OF LAW

As a preliminary matter, the Claimant's CDC benefits were closed because the Claimant was not working. During the hearing, the Claimant acknowledged she had not worked and that the termination of benefits was proper. Accordingly, the Department's CDC closure is AFFIRMED.

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"), formally known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. 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").

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"), unless deferred, are required to engage in employment or participate in other approved activities. BEM 230A 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 Failure to comply without good cause results in FIP closure. BEM 233A Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors beyond the control of the non-compliant person. BEM 233A A claim of good cause must be verified and documented. BEM 233A Good cause exists when a client is physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. BEM 233A The first and second occurrences of non-compliance results in a 3 month FIP closure. BEM 233A

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 failed to meet the requirements of the JET program on October 12th through October 14, 2010. During this time, the Claimant testified that her vehicle had broken down. The evidence shows that the Claimant contacted the Department on October 15th to inform it of her transportation problems which was after the non-compliance dates. The Department stated that the Claimant was able to perform her job search activities from home thus she did not have to be physically present. The Claimant did not submit her job search logs. As a result, a triage was scheduled for November 4th. As required by policy, the Department sent the DHS-2444 to the Claimant informing her of the dates of non-compliance; the reason she was found non-compliant; and the date of the triage. The triage went forward and the Department determined that good cause did not exist. This was the Claimant's second non-compliance therefore she was not offered an opportunity to comply. The following day, the Department pended the Claimant's case for closure. Department policy requires that the triage be held and a good cause determination be made within the negative action period and prior to the negative action effective date. In this case, the triage was held prior to the case being pended for closure. In light of the procedural defect, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Department's actions are AFFIRMED in part/REVERSED in part.

Accordingly, it is ORDERED:

1. The Department's termination of CDC benefits is AFFIRMED.
2. The Department's termination of FIP benefits is REVERSED.
3. The three month sanction is not imposed.

- 4. The Department shall reinstate the Claimant's FIP benefits back to the date of closure and supplement for lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 2/28/2011

Date Mailed: 2/28/2011

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.

CMM/jlg

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