

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2012 38082
Issue No. 1038, 3029
Case No. [REDACTED]
Hearing Date: April 5, 2012
Macomb County DHS (20)

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 April 5, 2012. The Claimant appeared and testified; Charles Chapman also appeared and testified. [REDACTED], FIS Case Manager, appeared on behalf of the Department. [REDACTED], JET Liaison Michigan Works appeared as a witness on behalf of the Department.

ISSUE

Whether the Department correctly sanctioned and closed the Claimant's cash assistance (FIP) 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's partner and member of her group Charles Chapman was assigned to attend the Work First program. The Claimant was in her 9th month of pregnancy and thus could not attend work first. [REDACTED] a group member attended orientation, but did not return thereafter.
2. The Department sent a notice of non compliance to the Claimant on February 16, 2012. The Notice scheduled a triage for February 23, 2012 at 2:00 pm. The notice indicated the non compliance dates as February 1, 2, and 3, 2012. Exhibit 3.

3. The Claimant's group member, [REDACTED], did not attend Work First because he did not have transportation due to the car which he shared with the Claimant breaking down. The Claimant did not obtain bus tickets.
4. The Work First program makes bus tickets available daily to attendees of the program who need transportation to attend.
5. The Claimant did not attend the triage.
6. The Department held a triage and found that there was no good cause for the Claimant's failure to attend Work first and that his attendance for February 2012 exceeded the monthly absence limit of 16 hours. Exhibit C.
7. The Claimant testified that she called the Department two times the week of the triage indicating that [REDACTED] could not attend.
8. The Department representative testified that she not receive any phone messages advising her that [REDACTED] could not attend the triage, or requesting a phone conference triage.
9. The Department sanctioned and closed the Claimant's FIP case for 3 months and removed [REDACTED] from the Food Assistance group effective April 1, 2012. Exhibit D.
10. The Claimant requested a hearing on February 29, 2012 protesting the closure of her FIP cash assistance and reduction of her food assistance benefits.

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") as a condition of eligibility 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. However, a failure to participate can be overcome if the client has good cause. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the Claimant. BEM 233A. The penalty for noncompliance is FIP closure. However, a failure to participate can be overcome if the client has good cause. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the Claimant. BEM 233A. The penalty for noncompliance is FIP closure.

In this case, the Claimant received the Notice of Non Compliance, and although both the Claimant and ██████████ indicated that they called the Department, their testimony was not supported by any independent evidence establishing there were phone calls to the Department. The Department representative credibly testified that she returns her clients' phone calls and did not recall receiving a call from the Claimant or ██████████ requesting a conference be held for the triage, which she would have arranged. The testimony of the Department was found credible and thus it is determined that no conference call for the triage was received by the Department. This decision was also influenced by the fact that, notwithstanding, bus tickets are available to persons assigned to attend Work First and are available every day, no effort to obtain bus tickets or to contact the Work First program or the caseworker was made, until after a Notice of Non Compliance was issued three weeks after ██████████ began not attending the program.

The Department held a triage on July 7, 2011 pursuant to the Notice of Non Compliance, which the Claimant did not attend. At the triage the Department determined that the Claimant was in non compliance without good cause because the Claimant exceeded his hours of absence for the month of February 2012 and specifically found that no good cause for non compliance was established. Exhibit C. The Department properly complied with Department policy regarding the requirements

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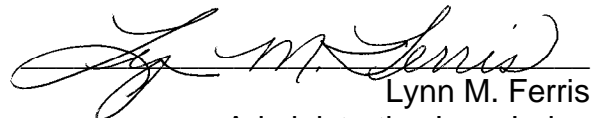
regarding triages and the finding of no good cause for non compliance with the Work First attendance requirements. BEM 233A.

There was no good cause reason offered as to why [REDACTED] could not attend the Work First program. A car breakdown might excuse an individual for a couple of days before the car could be repaired or before they could get bus tickets, but in this case no effort to attend work first was made and no attempt to obtain bus tickets was made. This finding was also influenced by the fact that Claimant did not inform her case worker of the transportation problem when it occurred. No contact or information was provided to the Department, and the Claimant testified that no contact was attempted until after receiving the Notice of Non Compliance. Thus, it must be found that the Department correctly closed the Claimant's FIP cash assistance case and properly imposed a 3 month sanction for noncompliance with work related activities.

Based of the above Findings of Fact and Conclusions of Law and for the reasons stated on the record at the hearing, the testimony of witnesses and the documentary evidence received, the Department has demonstrated that it correctly followed and applied Department policy in closing and sanctioning the Claimant's FIP case for non compliance without good cause and removing [REDACTED] from the Claimant's FAP group and imposing a 3 month sanction. BEM 233A.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department correctly closed the Claimant's cash assistance FIP case and reduced the Claimant's FAP benefits and correctly imposed a 3 month sanction closing the Claimant's case for noncompliance with work related activities for non-attendance at the Work First program. Accordingly, the Department's determination is AFFIRMED.


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

Date Signed: April 6, 2012

Date Mailed: April 6, 2012

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

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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

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cc:

