

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 52196
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 13, 2012
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 June 13, 2012. The claimant appeared and testified. [REDACTED], FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's cash assistance (FIP) application for failure to attend Work First orientation?

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 applied for cash assistance (FIP) on March 15, 2012.
2. The Claimant was assigned to attend Work First orientation on April 23, 2012. Exhibit 1.
3. The Claimant did attend Work First orientation as scheduled but was turned away by the Work First program with 8 other individuals, due to reaching capacity.
4. On the date the Claimant was turned away from Work First, the Claimant called his caseworker and other prior caseworkers attempting to tell them what had happened. The Claimant also went to the DHS office to attempt to advise his caseworker about what had occurred.

5. The Claimant cares for his elderly mother who lives with him.
6. The Department denied the Claimant's application on April 1, 2012 for failure to attend the Work First orientation appointment. Exhibit 2.
7. The Claimant requested a hearing on May 9, 2012 protesting the denial of his FIP application.

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

In this case the Claimant did attend the Work First orientation as scheduled, and credibly testified that he and 8 others were turned away by the Work First program due to the program capacity for orientation being reached. The Claimant then attempted to reach his caseworker, and also that day reported to the Department offices in attempt to see someone about what had occurred regarding his Work First orientation.

Based upon the Claimant's credible testimony, corroborating evidence and the hearing request, it is found that the Claimant's application should not have been denied for failure to attend the appointment as he did everything required to do to attend and through no fault of his own could not attend.

Under these circumstances the Department should not have denied the application, as he was entitled to reschedule the orientation date, and in fact, called to reschedule and

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attempted to advise the Department what had happened. The Claimant did everything he was required to do to preserve his application. Therefore, it is determined that the Department improperly denied the application for failure to attend Work First orientation. Based on the foregoing facts and testimony of the witnesses, the Department should not have denied the Claimant's FIP application for failure to attend the Work First orientation.


It is also determined that the Claimant is not deferred from work first attendance because he cares for his elderly mother. BEM 230A page 15, allows only those persons caring for a spouse or child with disabilities living in the home be excused from attending Work First.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department improperly denied the Claimant's FIP application for failure to attend the Work First orientation, as the Claimant was not afforded the opportunity to reschedule the orientation date and did not fail to verify information. Therefore the Department's determination denying the Claimant's application for FIP is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall initiate reinstatement of the Claimant's March 15, 2012 application and assign the Claimant to attend Work First orientation, and thereafter process the application to determine eligibility.
2. The Department shall issue a supplement to the Claimant for any FIP benefits he was otherwise entitled to receive in accordance with Department policy.


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

Date Signed: June 18, 2012

Date Mailed: June 18, 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 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:

