

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

IN THE MATTER OF:



Reg.No. 2012 52536
Issue No. 1038
Case No. [REDACTED]
Hearing Date: June 13, 2012
Wayne County DHS (49)

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 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 was an ongoing participant of the Work First program and was an ongoing recipient of FIP benefits.
2. The Claimant did not meet her participation requirements of 20 hours per week for the weeks of 2/20, 2/27,3/5 and 3/12. The Claimant also did not submit her weekly participation papers on a timely basis.
3. The Department sent a Notice of Non Compliance to the Claimant on March 26, 2012. The notice scheduled a triage for April 4, 2012. The notice indicated the non compliance due to failure to participate in the JET program as required. Exhibit 1.
4. The Claimant did attend the triage. At the triage the Claimant did not advise the Department that she missed Work First due to her baby's illness.

5. The Claimant produced a letter from her daughter's doctor at the hearing which indicated that her daughter had been attended to by the doctor but did not specifically reference any dates. Claimant Exhibit 1.
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 her attendance for February 2012 and March 2012 did not meet participation requirements.
7. The Department sent a Notice of Case Action on 4/25/12, which closed the Claimant's FIP case for 6 months. Exhibit 3.
8. The Claimant requested a hearing on May, 10, 2012 protesting the closure of her FIP cash assistance case.

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. BEM 233a provides direction to the Department as follows when determining good cause:

Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or the work participation program.

In this case, the Claimant was assigned to attend Work First. The records presented at the hearing indicate that her attendance was deficient and that the 20 hours participation requirement was not met. Exhibit 2. The triage was held and resulted in a finding of no good cause, and a second sanction being imposed by the Department. At the hearing, the Claimant introduced a letter from her infant daughter's doctor as the basis why she was unable to meet participation requirements. The letter indicates that due to her daughter's condition she was unable to attend Work First. The letter does not reference any specific dates that the Claimant did not attend due to her daughter's medical condition, and thus is deemed insufficient to establish good cause. It is the Claimant's responsibility to attend Work First and to provide the program proof of doctor's appointments, as they occur, so that an absence may be excused. The time to present this information is when it is happening and at the triage.

In this case there were no specific dates or times provided by the Claimant to demonstrate that during the extended period she did not meet her participation requirements in February and March 2012, nor was there evidence that the absences were excused and beyond her control due to her child's health problems. The case notes prepared by the Work First program contemporaneous to events occurring do not mention any reference to the Claimant advising the program that the Claimant was absent due to her baby's illness.

The evidence presented demonstrated that the Department held a triage, and that at the triage the Department determined that the Claimant failed to meet her 20 hours per week participation requirements, and thus was in non compliance and that good cause was not established. The Department had no other evidence to consider regarding the reason(s) for the Claimant's absences, which might demonstrate good cause because the Claimant did not present proof that she was attending to her daughter's health issues. Thus, the Department correctly found no good cause and instituted closure of the Claimant's FIP case.

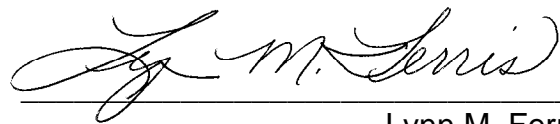
Unfortunately, the Claimant's inaction with regard to attending Work First and not communicating with the program caused the sanction to be properly imposed.

The Department properly complied with Department policy regarding the requirements regarding triages and the finding of no good cause for non compliance with the Work First attendance requirements, and thus properly imposed the sanction. BEM 233A.

Based of the above Findings of Fact and Conclusions of Law and 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 imposing a 6 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 correctly imposed a 6 month sanction closing the Claimant's case for noncompliance with work related activities for non participation with 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: June 20, 2012

Date Mailed: June 20, 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).

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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:

