

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

IN THE MATTER OF:



Reg.No. 2012 53698
Issue No. 1038
Case No. [REDACTED]
Hearing Date: June 18, 2012
Wayne County DHS (17)

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 18, 2012. The Claimant appeared and testified. [REDACTED], Program Manager, and [REDACTED], FIS JET Case Manager appeared and testified on behalf of the Department.

ISSUE

Whether the Department properly sanctioned and closed the Claimant's cash assistance (FIP) case 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 assigned to attend the Work First program. The Claimant attended the program.
2. The Claimant became ill and suffered from medical problems and advised the Work First manager assigned that she was ill and continued to update the worker on her condition.
3. The Department issued a Notice of Non Compliance on 7/26/11 scheduling a triage for 8/4/11. Exhibit 2.
4. The Claimant was asked to submit medical substantiation for her illness and absence from the Work First program.

5. The Department scheduled a triage for August 4, 2011, and did not determine good cause, but instead found the Claimant was no call, no show. Exhibits 1 and 3.
6. The Claimant was sanctioned and her FIP case closed effective 9/1/11 for a 3 month period. This was the Claimant's first non compliance.
7. The Claimant did not attend the triage because she mistakenly reported to her DHS caseworker at the Inkster Office instead of the Work First office. The Claimant provided her then case worker with doctor records of her illness.
8. The Department issued a Notice of Case Action which sanctioned and closed the Claimant's FIP cash assistance case for non compliance with work related activities for three months.
9. The Claimant provided a doctor's excuse indicating that she was under doctor's care. Claimant Exhibit 1.
10. No personnel from the Work First program attended the hearing so no one testified with first hand knowledge regarding the triage.
11. The Claimant requested a hearing on 9/28/11 protesting the closure of her FIP 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") 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 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.

Good cause is demonstrated when factors outside of the control of the non compliant person causes them to be absent. Illness is such a reason. In this case the Claimant credibly testified that she provided the Work First program and her then case worker with doctor's notes and excuses. Because the Claimant's case was transferred to another office, the old file which would have contained information regarding the time period of the triage was not available. The current file had only information from January 2012. Additionally, no one from the Work First program attended the hearing and no witness with first hand knowledge testified at the hearing on behalf of the Department. In this case, the Claimant provided through her testimony and through a doctor's note, that she had been diagnosed and treated for severe hip pain and back pain. Although the note is later in time, Claimant credibly testified that she gave her prior notes to the Work First program and her then case worker. The note presented at the hearing was dated August 2, 2012 and was to be presented at the triage. Claimant Exhibit 1. Based upon the foregoing, the Claimant has demonstrated good cause and thus the Department's decision closing the Claimant's FIP case was in error, as the Claimant has demonstrated a good cause reason for her non attendance at the Work First program. BEM 233A, pages 3 and 4.

DECISION AND ORDER

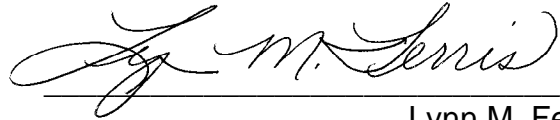
The Administrative Law Judge, based on the above findings of fact and conclusions of law find that the Department improperly closed and sanctioned the Claimant's FIP case for 3 months as the Claimant demonstrated good cause for her failure to attend the Work First program due to illness, and therefore its determination is REVERSED.

Accordingly it is ORDERED:

1. The Department shall reopen and reinstate the Claimant's FIP case retroactive to the date of closure due to non compliance with Work First.

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2. The Department shall issue a supplement to the Claimant for FIP benefits she was otherwise entitled to receive, in accordance with Department policy.
3. The Department shall delete and remove from the Claimant's case record and the Bridges system the sanction it imposed arising out of the triage of August 4, 2012.



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

Date Signed: June 22, 2012

Date Mailed: June 22, 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.

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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:

