

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2012 65124
Issue No. 1038
Case No. [REDACTED]
Hearing Date: October 10, 2012
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

AMENDED 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 October 10, 2012. The Claimant appeared and testified. [REDACTED] 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 an ongoing recipient of FIP cash assistance benefits.
2. The Claimant was assigned to attend the Work First program orientation on two occasions, 3/7/12 and 6/6/12. (Exhibit 1)
3. The Claimant did not attend as scheduled.
4. The Department did not issue a Notice of non Compliance for failure to attend the Work First program.

5. The Department sent a Notice of Case Action on July 11, 2012, which sanctioned and closed the Claimant's FIP case, effective 8/1/12, for a 3 month period. (Exhibit 2)
6. At the time she was assigned to attend the Work First program the Claimant was working at least 35 hours per week, and so advised her caseworker. (Claimant Exhibit 1)
7. The Department did not conduct a triage prior to closing the Claimant's FIP case.
8. The Claimant requested a hearing on July 15, 2012, 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 occurrence of non-compliance results in a 3 month FIP closure, the second results in a 6 month closure and the third occurrence results in a lifetime 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-

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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 was working at least 35 hours per week.

Work participation program participants will not be terminated from the work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Locally coordinate a process to notify the work participation program case manager of triage meetings, including scheduling guidelines.

Do not schedule a triage for instances of noncompliance while the FIP application is pending.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. If the client requests to have an in-person triage, reschedule for one additional triage appointment. Clients must comply with triage requirements and provide good cause verification within the negative action period.

Because the Department closed the Claimant's FIP case without issuing a Notice of Non Compliance and conducting a triage the Department did not meet the requirements of Department policy and thus the Department's decision closing the Claimant's FIP case was in error. Department of Human Services Bridges Eligibility Manual (BEM) 233A, pp. 7 and 8. (2012)

The Claimant should also be aware that Work First attendance is excused only if a participant is working 40 hours per week, and thus working less than 40 hours weekly may require additional Work First participation or other activity as assigned by the Work First program and participants must report to Work First as assigned. The Department Policy provides as follows:

Working 40 Hours Per Week

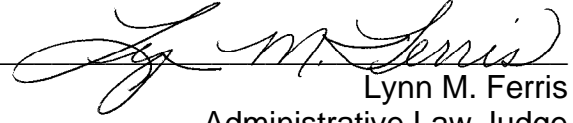
Applicants and members added to the cash assistance group who are working a minimum of 40 hours per week at the state minimum wage are not referred to the work participation program. This client's participation in employment is meeting requirements. Department of Human Services Bridges Eligibility Manual (BEM) 230A pp.7. (2011).

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 when it failed to conduct a triage prior to closure of the case 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 (8-1-12) due to non compliance with Work First.
2. The Department shall issue a supplement to the Claimant for FIP benefits, if any, 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 by issuance of the 7/11/12 Notice of Case Action closing the FIP case and imposing a 3 month sanction.


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

Date Signed: 10/23/2012

Date Mailed: 10/23/2012

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:

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- 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

LMG/hw

cc:

