

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2012 65345
Issue No. 1038
Case No. [REDACTED]
Hearing Date: September 5, 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 September 5, 2012. The Claimant appeared and testified. [REDACTED] appeared and testified as a witness for the Claimant. [REDACTED] t, FIS Case Manager appeared and testified on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's cash assistance (FIP) application for non compliance with work related activities.

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 FIP cash assistance on May 22, 2012 and was assigned to attend the Work First program on June 19, 2012. The Claimant attended the program appointment and also continued to attend on June 20 and 21, 2012. Claimant Exhibit 1.
2. The Claimant was pregnant at the time she attended the program and was required to be off her feet as of 6/29/12, as confirmed by a doctor's note, which she presented to both Work First and the Department.
3. The Department did not request a deferral and denied the application.

4. The Department issued a Notice of Case Action on July 2, 2012, which denied the Claimant's FIP application as of 6/16/12, for failure to attend the Work First program and remain in compliance. Exhibit 2.
5. The Claimant requested a hearing on 7/9/12 protesting the denial 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. Department of Human Services Bridges Eligibility Manual (BEM) 233A (2011).

As regards FIP applications Department policy requires that when assigned, clients must engage in and comply with all work participation program assignments while the FIP application is pending. Work participation program engagement is a condition of FIP eligibility. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. Bridges automatically denies FIP benefits for noncompliance while the application is pending. Department of Human Services Bridges Eligibility Manual (BEM) 229 (2011) pp1.

In this case the Claimant provided through her testimony and through attendance sheets and job logs that she attended the Work First program. The Claimant also presented to both the Work First program on July 3, 2012 and the Department on July 9, 2012 a doctor's note dated [REDACTED] stating that she was 35 weeks pregnant and was to stay off her feet until further advised. Exhibit 2.

The Welfare Registration Participation History admitted as evidence by the Department confirms the Claimant presented the Work First program the doctor's note on July 3

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2012 and was advised to submit it to the Department. Even though nothing in the Participation History indicates the Claimant was in noncompliance, the Department denied the application on 6/16/12 by Notice of Case Action dated 7/2/12. Exhibits 1 and 2. There is no basis in the hearing record to deny the application as of 6/16/12 and it appears the Department did not seek to process a deferral, in light of the doctor's note.

The Claimant credibly testified that she gave the doctor's note to her case worker as directed by Work First and the Department took no action to seek a deferral, but instead denied the application. Department policy also recognizes that complications from pregnancy is a basis for deferral if verified. Department of Human Services Bridges Eligibility Manual, (BEM) 230A (2011), pp. 8, 10.

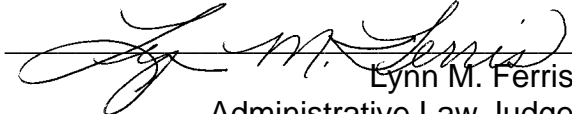
Based upon the foregoing, the Claimant has demonstrated that she was potentially eligible for a deferral and that her application should not have been denied. The Department's evidence did not demonstrate a basis for the application denial, and thus it is determined that the Department's decision denying the Claimant's FIP application was in error.

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 initiate re-registration of the Claimant's 5/22/12 FIP application and shall process the application to determine Claimant's eligibility.
2. The Department shall issue a supplement to the Claimant for FIP benefits she 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: September 13, 2012

Date Mailed: September 13, 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

LMG/hw

cc:



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