

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2012 67228  
Issue No. 1038  
Case No. [REDACTED]  
Hearing Date: September 27, 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 27, 2012. The Claimant appeared and testified. [REDACTED], a witness also appeared. [REDACTED], FIS/ JET Worker appeared and testified on behalf of the Department.

**ISSUE**

Whether the Department properly denied the Claimant's cash assistance (FIP) application for failure to attend the Work First Program 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 was assigned to attend the Work First program orientation on June 11, 2011. On that date, the Claimant could not attend and was told to attend June 18, 2012 (the following Monday).
2. The Claimant attended the Work First program orientation on June 18, 2012 and presented a letter from her doctor indicating that due to high risk pregnancy she was not to attend the Work First program until July, 9, 2012. Claimant Exhibit 1
3. The Claimant provided a copy of her doctor's excuse to the Department on June 18, 2012, by leaving a copy of the Doctor's letter with her name on it at the DHS front desk.

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4. The Claimant did not report to Work First on July 9, 2012 because she was again hospitalized (until July 11, 2012) due to her pregnancy. Claimant Exhibit 2
5. On July 12, 2012, the Claimant was offered a job at Sears as a Merchandise Associate and applied for Child Development and Care benefits.
6. At no time did the Department contact the Claimant after she dropped off the June 18, 2012 doctor's excuse.
7. No witness from the Work First program attended the hearing.
8. On July 14, 2012, the Department sent a Notice of Case Action to the Claimant denying her FIP application for her son, due to receiving SSI. The notice was deficient in that it did not indicate that the FIP application was denied due to failure to participate in Work First. Exhibit 3
9. The Notice of Case Action denied the application as of March 16 2012.
10. The Claimant requested a hearing on July 18, 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 and second occurrences of non-compliance

results in a 3 month FIP closure. BEM 233A The third occurrence results in a 12 month sanction.

Noncompliance by a WEI while the application is pending results in group ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending, must have benefits delayed; see Benefit Delay for Refusing Employment in this item. A good cause determination is not required for applicants who are noncompliant prior to FIP case opening. Department of Human Services Bridges Eligibility Manual (BEM) 233A (2012) pp 5-6.

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. The Claimant also presented the Department a doctor's note that she was pregnant and was excused from attending Work First. The Claimant credibly testified that she gave the doctor's note to the Department front desk on June 18, 2012. The Department did not have the Claimant's case file at the hearing. The only evidence to rebut that the Claimant did not attend on the 18<sup>th</sup> was a document known as the Welfare Registration Participation History kept by the Work First program, which does not indicate the Claimant did not attend, but notes the last date to attend. The Department did testify that it spoke to someone at JET, but relied on the history. Exhibit 2

Based upon the foregoing, the Claimant has demonstrated that she did attend the Work First program but was not able to continue to attend due to pregnancy complications. Based upon this conclusion the Department's decision denying the Claimant's FIP application was in error, as the Claimant has demonstrated a good reason for her non attendance at the Work First program based upon her doctor's excuse, which was based upon a physical illness and condition causing her to be unable to attend. BEM 233A, pages 3 and 4.

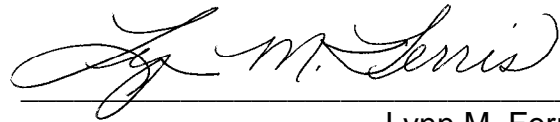
As noted in the Findings of Fact, the Notice of Case Action denied a FIP application as of 3/16/12 for Claimant's son due to his receiving SSI. There was no information at the hearing to determine the Claimant's actual application date and the Department representative thought it might be February 29, 2012. Due to the lack of information available at the hearing no specific application date was established.

### **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 FIP application, retroactive to the FIP application date (which is not confirmed but shall be determined by the Department) and shall process the application to determine Claimant's eligibility in accordance with this decision.
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: 10/4/2012

Date Mailed: 10/4/2012

**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:

