

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2012 71122
Issue No. 1038
Case No. [REDACTED]
Hearing Date: October 18, 2012
Wayne County DHS (35)

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 October 18, 2012. The claimant appeared and testified. [REDACTED], FIS, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's cash assistance (FIP) case for failure to attend Work First 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 receiving cash assistance (FIP).
2. The Claimant was assigned to attend the Work First program on 5/23/12 and did report as directed but was turned away, as she was referred to the wrong site. (Exhibit 1)
3. The Department concedes it sent the Claimant to the wrong site.
4. A second notice of appointment was sent to the Claimant on 5/23/12 to attend Work First on June 6, 2012. The Claimant did not attend the program, as the notice was sent to the Claimant at an old address. The Department did not send it to the correct address. (Exhibit 2)

5. A Notice of Non Compliance was sent to the Claimant on 7/10/12 scheduling a triage on 7/17/12. The Notice was sent to the Claimant at her correct address but she did attend the triage. (Exhibit 3)
6. At the triage the Department and the Work First program found no good cause for failure to participate, even though the Notice of Appointment was sent to the wrong address. No Department or Work First personnel who were present at the triage attended the hearing.
7. On July 19, 2012, the Department sent the Claimant at Notice of Case Action which closed her FIP case, effective 8/1/12, for 6 months. (Exhibit 3)
8. The Claimant received a letter dated 6/28/12 from the Work First program, which she received 3 weeks ago post marked in September 2012 sent to her old address.
9. The Claimant requested a hearing on 8/10/12 protesting the closure of her FIP application.

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

In this case the Claimant did not attend the Work First appointment because she was sent to the wrong location by the Department. The second appointment was also not attended, due to the Department's failure to properly address the letter to the Claimant

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at her current address, which the Department had on file. At the triage, the Department found no good cause because the Claimant did not report to Work First or respond the Work First reengagement letter (also sent to the wrong address). The Department also imposed a sanction which closed the Claimant's case. Failure to send Notices of Appointment and reengagement letters to the correct known address, such that Claimant's do not receive them does provide good cause for this Claimant to have not attended the Work First appointments.

Based upon the Claimant's credible testimony, it is determined that the Claimant's case should not have closed for failure to attend the Work First appointment. The Department should not have imposed a sanction for non compliance without good cause.

Under these circumstances, the Department should not have closed the Claimant's case. She was entitled to notice of the appointments she was required to attend, which were not received by her due to the Department's error (a circumstance which was out of her control). The Claimant has demonstrated good cause and thus the Departments closure of her case and imposition of a sanction was in error. BEM , 230A and 233A

Based on the foregoing facts and testimony of the witnesses, the Department improperly closed the Claimant's FIP case for failure to attend the Work First orientation.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department improperly denied the Claimant's FIP application for failure to attend the Work First orientation.

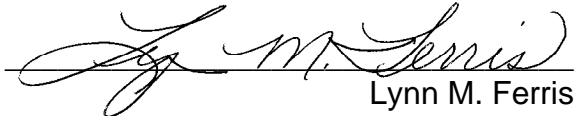
Therefore the Department's determination denying the Claimant's application for FIP is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall initiate reinstatement of the Claimant's FIP case retroactive to 8/1/12 (date of closure).
2. The Department shall issue a supplement to the Claimant for any FIP benefits Claimant was otherwise entitled to receive in accordance with Department policy.

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3. The Department shall remove the sanction for failure to participate in the Work First program, which it imposed as a result of the triage it conducted on 7/17/12 from Department records and Claimant's case file.


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

Date Signed: 10/26/2012

Date Mailed: 10/26/2012

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

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cc:

