

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

IN THE MATTER OF:



Reg.No. 2012-71981
Issue No. 1038
Case No. [REDACTED]
Hearing Date: October 22, 2012
Oakland County DHS (04)

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 22, 2012. The Claimant appeared and testified. [REDACTED], FIM appeared on behalf of the Department. [REDACTED], Case Manager for the Work First Program, appeared as a witness for the Claimant.

ISSUE

Whether the Department correctly sanctioned and closed the Claimant's cash assistance (FIP) for noncompliance 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 participant of the Work First program and was an ongoing recipient of FIP benefits.
2. The Department sent the Claimant a Notice of Noncompliance indicating that the Claimant did not meet her participation requirements of 20 hours per week for the week of June 21, 2012. The Claimant also did not submit her weekly participation papers, time sheets,
3. The Department sent a notice of noncompliance to the Claimant on July 21, 2012. The Notice scheduled a triage for August 2, 2012. The Notice indicated the noncompliance due to failure to participate in the Jet program as required. Exhibit 5.

4. The Claimant did attend the triage. At the triage the Department found no good cause for the Claimant's failure to attend Work First and that her attendance did not meet participation requirements as she did not provide her time sheets as required.
5. The Department sent a Notice of Cause Action on September 1, 2012 which closed the Claimant's FIP case for 3 months. Exhibit 6
6. The Claimant requested a hearing on August 14, 2012 protesting the closure of her FIP cash assistance 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") as a condition of eligibility 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. However, a failure to participate can be overcome if the client has good cause. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the Claimant. BEM 233A. The penalty for

noncompliance is FIP closure. However, a failure to participate can be overcome if the client has good cause. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the Claimant. BEM 233A. The penalty for noncompliance is FIP closure. BEM 233a provides direction to the Department as follows when determining good cause:

Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or the work participation program.

In this case, the Claimant was assigned to attend Work First and was assigned to an off site location to perform 20 hours of community service volunteer work and was required to submit weekly time sheets. The Department did not receive time sheets for the week of [REDACTED] and for the week of [REDACTED]. The Claimant acknowledged at the hearing that she was required to provide the program weekly time sheets and did not do so. The Claimant also indicated that on some occasions she could not punch out the time clock because the time clock room was closed. The Claimant did not contact the Work First program to tell them of the problem punching out her time and did not complete weekly time sheets.

At the triage the Department reviewed the records Claimant brought to the triage and found that they were not on forms for the Work First program but for a different Work First program location and that the information did not demonstrate good cause. At the hearing the Claimant provided a time sheet showing a [REDACTED] time card and a letter from the community program with her total hours. This information was not presented at the triage.

After reviewing the documents submitted by the Claimant at the hearing and the testimony of the parties, it is determined that the Department correctly determined that the failure to file weekly time sheets demonstrating compliance with the time sheet requirement and the participation requirements was noncompliance without good cause. The records Claimant presented at the hearing did not substantiate the weeks of compliance and did not establish that she participated 20 hours for the weeks in question.

In conclusion, it is the Claimant's responsibility to attend Work First and to provide the program proof of participation, which is the essence of the program. There did not appear to be any good cause reason presented by the Claimant at the hearing to support good cause for failing to provide weekly time sheets as required.

The evidence presented demonstrated that the Department held a triage and that at the triage the Department determined that the Claimant had failed to meet her 20 hours per week participation requirements and thus was in noncompliance. The Department had

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no evidence which demonstrated as required by the program that the Claimant was meeting participation requirements. Thus, Department correctly found no good cause and instituted closure of the Claimant's FIP case.

Unfortunately, the Claimant's inaction with regard to advising the program of the time clock problem in the first instance, and then the complete failure to turn in any time sheets, a known requirement, and not communicating with the Work First program caused the sanction to be properly imposed.

The Department properly complied with department policy regarding the requirements regarding triages and the finding of no good cause for noncompliance with the Work First attendance requirements and thus properly imposed the sanction. BEM 233A

Based on the above Findings of Fact and Conclusions of Law and the testimony of witnesses and the documentary evidence received, the Department has demonstrated that it correctly followed and applied Department policy in closing and sanctioning the Claimant's FIP case for noncompliance without good cause and imposing a 3 month sanction. BEM 233A.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the department correctly closed the Claimant's cash assistance FIP case, and correctly imposed a 3 month sanction on closing the Claimant's case for noncompliance with work-related activities for non-participation with the Work First program. Accordingly, the department's determination is AFFIRMED.



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

Date Signed: October 31, 2012

Date Mailed: October 31, 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 at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:

