

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2012 72734
Issue No. 1038
Case No. [REDACTED]
Hearing Date: October 22, 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 22, 2012. The Claimant appeared and testified. [REDACTED], FIS, and [REDACTED], FIS, appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's cash assistance (FIP application 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 applied for FIP cash assistance and was assigned to attend the Work First orientation. The date of the application was not provided by the Department.
2. At the time of her application, the Claimant advised her then-caseworker that she was unable to attend Work First due to a medical problem.
3. The Department sent a Notice of Appointment to the Claimant, dated 6/9/12, for an appointment on 6/25/12. (Exhibit 1)
4. The Claimant did not receive the Notice because her son took the mail and put it in a drawer.

5. The Claimant did not attend the Work First orientation because she did not receive the Notice of Appointment, and had prior to the notice of appointment, turned in a doctor's note excusing her from Work First.
6. The Claimant was unable to reach her caseworker and her application was denied.
7. The Claimant's caseworker advised her to turn in a doctor's note indicating she could not attend Work First. The caseworker was not available at the hearing.
8. The Claimant provided a letter from her doctor and physical therapist, indicating she could not participate. Sometime in May 2012 she deposited the note into the Department drop box.
9. The Claimant requested a hearing on 8/15/12, protesting the denial 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 orientation because she had previously submitted a doctor's note indicating that she could not attend Work First. The Claimant had submitted the note by placing it in the drop box in May 2012. The Claimant's then-caseworker advised her that the Notice of Appointment would not be sent if she turned in the doctor's note. I find the Claimant's testimony that she turned in

the doctor's note to be credible and unrebutted, and thus find that the Notice of Appointment should not have been issued without processing a deferral. Department of Human Service Bridges Eligibility Manual (BEM) 230A (2012). The Department's case was hindered by the fact that the Claimant's then-caseworker did not participate in the hearing and the Department did not have the Claimant's case file from that time period at the hearing. Although the Claimant did not receive the Notice of Appointment due to her son's lack of attention to the mail, the fact that the notice was received late is irrelevant, as the Claimant provided the Department with medical documentation prior to the appointment notice and should have been deferred for a determination of whether she was medically capable of attending Work First.

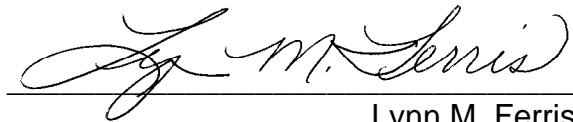
Under these circumstances the Department should not have denied the Claimant's application as she was entitled to have the medical information processed to determine if she was entitled to a deferral.

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 as the Claimant had previously provided the Department with a note from her doctor which had been requested by the Department to determine if she was required to attend Work First. Therefore the Department's determination denying the Claimant's application for FIP is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall initiate re-registration of the Claimant's FIP application which was denied in conjunction with the June 9, 2012 Notice of Appointment and process the application to determine eligibility.
2. The Department shall issue a supplement to the Claimant for any FIP benefits or 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: 10/29/2012

Date Mailed: 10/29/2012

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

LMF /hw

cc:



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