

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 15156
Issue No.: 1038
Load No.: [REDACTED]
Hearing Date: January 12, 2012
Oakland County DHS (03)

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 January 12, 2012 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], JET Coordinator appeared and testified. Also appearing as a witness for the Department was [REDACTED], Assistant Manager for Michigan Works.

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits due to Claimant's alleged noncompliance with Jobs, Education and Training (JET) participation.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing FIP benefit recipient.
2. The Claimant was assigned to attend the Work First program and was required to participate 20 hours per week.
3. On October 28, 2011 a Notice of Non Compliance was sent to the Claimant scheduling a triage for November 8, 2011 for non participation.

4. At the time of the triage it was established that the Claimant had not attended Work First for 7 weeks. Her son had been ill with a contagious disease for three of the weeks.
5. A triage was held which the Claimant attended. The Claimant was found to have no good cause. The Department agreed to afford the Claimant another chance and a form 754 was offered allowing her to attend Work First. Claimant was to begin to attend Work First within 10 days and present proof that she was not contagious at the time she reported.
6. Claimant did not provide the required doctor's certification and did not report back to Work First when required.
7. A Notice of Case Action dated 11/22/11 closed the Claimant's FIP case effective 1/1/12 for non compliance with work related activities and imposed a 6 month sanction. This was the Claimant's second sanction.
8. On 12/1/11, Claimant requested an administrative hearing to dispute the FIP benefit termination for non compliance without good cause with the JET program requirements.

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.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A at 1. Federal and state laws require each work eligible individual (WEI) in a FIP group to participate in Jobs, Education and Training (JET) Program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. *Id.* These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.*

JET is a program administered by the Michigan Department of Energy, Labor and Economic Growth through the Michigan Works! Agencies. *Id.* The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *Id.*

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause: failing or refusing to participate in work first activities.

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. *Id* at 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. *Id* at 4. A claim of good cause must be verified. *Id* at 3.

In this case, at the triage, the Claimant was found to have not demonstrated good cause for her failure to attend Work First for almost 7 weeks. The Claimant was offered a second chance by the Department to attend Work First and the Claimant agreed that she would return to Work First within 10 days of the triage and provide a doctor's certification that she was no longer contagious. The Claimant did not return to Work First as required and as she agreed. The Claimant testified that she did not report back to Work First because of a family emergency, as her grandmother was hospitalized and her mother also had pneumonia. The Claimant offered no documentation at the hearing of the emergency or present any witness to confirm the emergency.

The lack of evidence supporting her reason for failing to return to Work First may have been given more weight had the Claimant called the Work First program to advise them of the situation or later attempted to report to the program when the emergency was resolved. The Claimant did not take any steps to advise the program that she could not resume work first or report back to work first at any time. The Claimant testified that she did not call Work First because she did not have the phone number.

Under these circumstances the evidence demonstrated that the Claimant did not comply with the second chance opportunity she was given and thus the Department correctly closed her FIP case. At the hearing the Department conceded that it should have not have closed the Claimant's food assistance case as she has a one year old child.


Based on the presented evidence, the testimony of the witnesses and the exhibits, it is determined that the Department correctly found no good cause for the Claimant's failure to report back to Work First as scheduled after her triage. As it was established that Claimant was noncompliant with JET participation for lack of participation, it is found that DHS properly terminated Claimant's FIP benefits and imposed a six month sanction. As stipulated by the Department it should not have closed the Claimant's FAP case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefits effective 7/2011 based on noncompliance with JET participation. The action taken by DHS as regards closure of the FIP case is AFFIRMED. The Department's decision to close the Claimant's FAP case was in error and is REVERSED. Accordingly,

It is further ORDERED:

1. The Department shall initiate reinstatement of the Claimant's FAP case retroactive to the date of closure and shall issue the Claimant a FAP supplement in accordance with department policy.


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

Date Signed: January 17, 2012

Date Mailed: January 17, 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,

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- 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:

