

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2012 43706
Issue No. 1038
Case No. [REDACTED]
Hearing Date: May 7, 2012
Wayne County DHS (18)

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 May 7, 2012. The claimant appeared and testified. [REDACTED] FIS Case Manager, and [REDACTED], JET Coordinator, appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's cash assistance (FIP) for failure to attend Work First orientation.

Whether the Department properly denied the Claimant's cash assistance due to failure to complete a verification request.

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 cash assistance (FIP) on February 24, 2012.
2. The Claimant was assigned to attend Work First orientation on 3/19/12. Exhibit B.
3. The Claimant did not attend Work First as scheduled but requested a new appointment date, as she had a job interview on 4/19/12. The appointment date was not rescheduled.

4. The Claimant called her caseworker before the orientation date and sought to have her orientation date rescheduled.
5. The Claimant's caseworker did not reschedule the orientation.
6. The Department denied the Claimant's application March 16, 2012 for failure to attend the Work First orientation appointment. Exhibit A.
7. The Claimant was sent a verification checklist on March 1, 2012 with a due date of March 12, 2012. The Claimant received the verification request and returned shelter verification and check stubs she had received since 1/13/12. Exhibit C.
8. The Claimant did not return the Verification of employment.
9. The Claimant requested a hearing on March 29, 2012 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 she was scheduled to attend because she had a job interview and called her caseworker to reschedule the appointment prior to the date of the interview. The Claimant produced phone records to demonstrate that beginning 3/12/12 she placed numerous calls to her caseworker to reschedule the appointment. Based upon the Claimant's credible testimony and

corroborating evidence, it is found that the Claimant's case should not have closed for failure to attend the appointment, as she did everything required to reschedule the appointment prior to the due date as directed by the orientation notice. Before the orientation date, the Claimant called her caseworker to request that the orientation date be rescheduled.

Under these circumstances the Department should not have closed the Claimant's case as she was entitled to reschedule the orientation date, and called to reschedule before the orientation was held. The Claimant did everything she was required to do to preserve her application.

As regard the verification of employment, the Verification Checklist provided to the Claimant was unclear in that, although intending to seek both an employer verification and check stubs the language was as follows:

"I MUST HAVE the Verification of Employment to verify that you have not worked since 1/13/12, the date of the last check that you sent in. Otherwise I will need to see all paycheck stubs that you have received since 1/13/12 until the most current."

In this regard, the Claimant testified that she provided two check stubs per the verification, the one dated 1/13/12 and another subsequent pay stub which the Department acknowledged receiving. The Claimant works as a substitute teacher, and thus her income fluctuates. Based upon the evidence presented it is determined that the verification was unclear and although the language was intended to convey a message that 2 items were needed, a fair reading of the verification is that either item could be submitted to satisfy the verification. Under these circumstances the Claimant did not refuse to provide verification and the Claimant is deemed to have made a reasonable effort to provide the information. BAM 130 p. 5. Although the Claimant's application was not denied due to failure to verify on the official Notice of Case Action, the Department clearly indicated that it found failure to satisfy the verification request as another basis for denial of the application.

Based on the foregoing facts and testimony of the witnesses the Department should not have denied the Claimant's FIP application for failure to attend the Work First Orientation or for failure to verify requested employment information.

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 was not afforded the opportunity to reschedule the orientation date and did not fail to verify information.

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

Accordingly, it is ORDERED:

1. The Department shall initiate reinstatement and re register the Claimant's February 24, 2012 application and process the application to determine eligibility.
2. The Department shall issue a supplement to the Claimant for any 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: May 15, 2012

Date Mailed: May 15, 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:

