

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2012 65068
Issue No. 1038
Case No. [REDACTED]
Hearing Date: September 5, 2012
Wayne County DHS (15)

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 September 5, 2012. The Claimant appeared and testified. [REDACTED] appeared as a witness on behalf of the Claimant. [REDACTED], FIS Worker 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 Cash Assistance (FIP) on two occasions, 2/17/12 and a subsequent occasion.
2. The Claimant was assigned to attend Work First orientation on 3/26/12, but was turned away by the Work First program due to too many participants showing up for orientation. Exhibit 1.
3. The Department admitted that it incorrectly denied the Claimant's 2/17/12 application on March 16, 2012, but never reinstated the case or reassigned the Claimant to Work First. Exhibit 2.
4. The Claimant was again assigned to attend Work First on 6/4/12 pursuant to her second FIP application, but did not attend Work First as scheduled. Claimant

attempted to reschedule the orientation appointment on June 5, 2012, but her request to reschedule was denied and she was told to reapply. Exhibit 3 and 4.

5. The Department did not reschedule a Work First orientation appointment date for the June 2012 orientation.
6. On June 11, 2012, the Department issued a Notice of Case Action wherein the Department denied the Claimant's FIP application as of June 1, 2012 for failure to attend the Work First orientation appointment. Exhibit 4.
7. The Claimant timely requested a hearing on June 5, 2012, protesting the denial of both her FIP applications.

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 attend the Work First program appointment (first) as scheduled, but through no fault of her own, was turned away by the Work First program. The Claimant did not attend the second scheduled Work First orientation, but did attempt to reschedule the orientation date prior to her application denial and was improperly denied her rescheduling request by the Department and told to reapply. Additionally, the Claimant advised the Department that on the date of the second orientation appointment that she was unable to attend and requested a new appointment on June 6, 2012, the day after the missed orientation.

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Based upon the Claimant's credible testimony and the Claimant's efforts to reschedule the orientation appointment in a timely manner, it is determined that the Department improperly denied Claimant's second FIP application.

As regards the Claimant's first application and appointment, the Department admitted that the application was improperly denied. (See Hearing Summary) and thus the 2/17/12 application should be reinstated.

As regards the second FIP application (date unknown), the Department was required to reschedule the appointment before June 11, 2012, when it closed the Claimant's case, as she had contacted the Department within 20 days of the appointment notice. The Work Participation Notice gives notice that Claimants must call or appear within 20 days of the notice. In this case the Claimant did meet the 20 day requirement and should have been given the opportunity to reschedule the Work First appointment. Based upon the facts and the Claimant's credible testimony, the Claimant still had time remaining to reschedule, but the Department instead improperly denied the FIP application for failure to attend the Work First orientation.

Under these circumstances, the Department should not have denied the Claimant's 2/17/12 FIP application or the subsequent application as she was entitled to reschedule. Apparently the Claimant, in attempting to get the first application denial reversed, was told by Lansing DHS to reapply. Notwithstanding this advice, the Department was required to reinstate the first 2/17/12 application on its own, but did not do so at any time prior to the hearing. The Claimant's reapplication does not excuse the Department's improper denial of the first application. The Claimant did everything she was required to do to preserve her application and prevent her case from closing.

Based on the foregoing facts and testimony of the witnesses, the Department should not have denied the Claimant's FIP application dated 2/17/12 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, as the Claimant was not afforded the opportunity to reschedule the orientation date. 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 2/17/12 FIP application and process the application to determine eligibility.

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.


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

Date Signed: September 13, 2012

Date Mailed: September 13, 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:

