

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2012 68487
Issue No. 1038, 6019
Case No. [REDACTED]
Hearing Date: October 11, 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 11, 2012. The claimant did not appear, [REDACTED] the Claimant's Authorized Hearing Representative (AHR), and mother, appeared and testified. [REDACTED], FIS appeared on behalf of the Department. Lakishea Hawthorne, and [REDACTED] of [REDACTED] of [REDACTED] appeared as witnesses for the Department.

ISSUE

Whether the Department correctly sanctioned and closed the Claimant's cash assistance (FIP) and Child Development and Care(CDC) benefits for non compliance 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 in a training program, and when her training ended, was requested to reengage in the Work First program as agreed on April 9, 2012. Claimant was an ongoing recipient of FIP benefits and CDC benefits.
2. The Claimant was sent (and received) two letters from the Work First program requesting that she communicate with the program regarding turning in her job search records (which had not been turned in), and to provide an update with regard to her school attendance. She was also advised in the second letter, after she did not respond to the first letter, that she was considered to be in non

compliance as not having met the Work First program requirement and directed to report to Work First on July 2, 2012 to determine her status. (Exhibit 4 and 5)

3. The Claimant did not respond to the letters. The Claimant did not report to Work First as directed. (Exhibits 4 and 5)
4. The Department sent a Notice of Non Compliance to the Claimant on July 10, 2012. The Notice scheduled a triage for July 19, 2012.
5. The Claimant did not attend the triage.
6. The Claimant's AHR (and mother) testified that she (claimant) reported to the DHS office on the date of the triage but had to leave early because she had to report for a job she was beginning. The sign-in sheet for July 19, 2012 (triage date) was produced by the Department and Claimant's signature did not appear on the sign- in log sheet. (Exhibit 8)
7. A handwritten note signed by the Claimant, dated July 20, 2012 was presented at the hearing, which indicated that Claimant would complete a change report regarding her new job which was starting July 23, 2012 and that she was working 20 hours. The note indicated that she would be working 40 hours eventually and included a P.S. stating that she was not in non compliance. (Claimant Exhibit 1)
8. The Department held a triage on July 19, 2012 as scheduled. The Department found that there was no good cause for the Claimant's failure to attend Work First as scheduled, failure to turn in her job search on April 9, 2012 as requested, failure to advise the Work First program regarding her school attendance status and for failure to appear to reengage as requested on July 2, 2012.
9. The Department sent a Notice of Case Action on July 19, 2012 closing the Claimant's FIP case for 3 months effective August 1, 2012, and closed her CDC case effective August 12, 2012 and imposed a 3 month sanction. (Exhibit 3)
10. The Claimant's CDC case was closed August 12, 2012, as she no longer had a need for CDC benefits due to her non attendance at Work First.
11. The Claimant requested a hearing on July 30, 2012, protesting the closure of her FIP cash assistance and Child Development and Care cases.

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 result in a 3 and 6 month FIP closure respectively. BEM 233A The third occurrence results in a Lifetime 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.

BEM 233A provides direction to the Department as follows when determining good cause:

Clients must comply with triage requirement and provide good cause verification within the negative action period. 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. BEM 233A, page 8.

In this case, the Claimant was assigned to attend Work First and the records presented at the hearing indicate that she failed to respond to two requests to reengage with the Work First program, nor did Claimant update the program with regard to her student

status. The Claimant also did not attend the triage. The Claimant's mother attended the hearing on her behalf as Claimant was at work. The evidence that was introduced tended to prove that the Claimant was not at the DHS office for the triage on July 19, 2012, as the sign-in log did not contain her signature nor did the Claimant's letter to the Department dated July 20, 2012 in response to the triage dated for the day after the triage. Further the information provided at the hearing did not establish that the Claimant was engaged in school training during the period in question, except for one certificate provided to her case worker, which is dated June 7, 2012 and does not indicate when she participated or the hours of her participation. The triage was held and resulted in a finding of no good cause and a first (3 month) sanction being imposed by the Department.

The letter introduced by the Claimant, dated July 20, 2012, is not sufficient to excuse the Claimant's lack of participation for the dates in question, and thus, is deemed insufficient to establish good cause. It is the Claimant's responsibility to attend Work First and to provide the program proof of activities when requested. The time to present this information is when it is requested by letter, or at the triage and/or before the end of the negative action period.

The credible testimony of the Work First program witnesses established that the Claimant did not respond to either of their letters requesting updates, nor did Claimant report as requested on July 2, 2012.

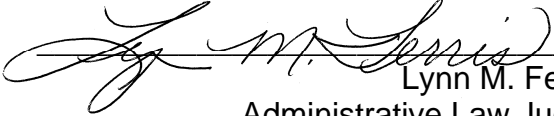
The evidence presented demonstrated that the Department held a triage, and that at the triage the Department determined that the Claimant had failed to participate and did not find good cause, as she failed to turn in status updates as requested and did not appear when requested to meet with Work First. The proofs and evidence presented by the Claimant and her AHR did not establish a basis for good cause for the issues of non compliance. The Department had no other evidence to consider regarding the reason(s) for the Claimant's absences which might demonstrate good cause because the Claimant did not present proof of her attendance at school nor any specific dates that she was in training and did not attend the triage. The Claimant's inaction with regard to attending Work First and not communicating with the program caused the sanction to be properly imposed.

Based of the above Findings of Fact and Conclusions of Law, 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 non compliance without good cause and imposing a 3 month sanction. BEM 233A.

DECISION AND ORDER

2012 68487 /LMF

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 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: 10/19/2012

Date Mailed: 10/19/2012

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

2012 68487 /LMF

LMF/hw

cc:

