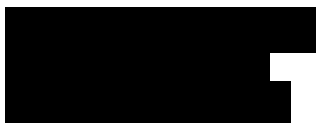


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 2012 70763
Issue No. 1038
Case No. [REDACTED]
Hearing Date: October 17, 2012
Wayne County DHS (17)

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 17, 2012. The Claimant appeared and testified. [REDACTED], JET Case Manager appeared on behalf of the Department. [REDACTED] of the Work First Program appeared as a witness for the Department.

ISSUE

Whether the Department correctly sanctioned and closed the Claimant's cash assistance (FIP) 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 an ongoing participant of the Work First program and was an ongoing recipient of FIP benefits.
2. The Claimant did not meet her weekly participation requirements of 20 hours per week for job search for the weeks of June 8, 2012.
3. The Department sent a Notice of Non Compliance to the Claimant on June 13, 2012. The notice scheduled a triage for June 21, 2012. The notice listed the non compliance date as 6/8/12. (Exhibit 2)
4. The Claimant came in late for the triage. At the triage the Department found no good cause, but allowed the Claimant 10 days (July 2, 2012) to provide proof that

she had day care problems and proof that she was incurring overtime charges by the day care facility. (Exhibit 1 and 3)

5. The Claimant, within 10 days, did provide the Department proof of incurring late charges on June 6, and possibly, on June 7, 2012. The Claimant submitted 2 pages which are date stamped received by DHS on 7/2/12, which were contained in the Department case file for the Claimant. (Exhibit 8)
6. The Claimant did not attend Work First on June 7, and 8, 2012 and did not call the Work First program to advise why she was not present. (Exhibit 3)
7. The Claimant's name did not appear on the Work First sign-in sheets for June 7 and 8, 2012. (Exhibit 4)
8. The Department sent a Notice of Case Action on July 13, 2012, closing the Claimant's FIP case for 3 months effective August 1, 2012. (Exhibit 7)
9. The Claimant requested a hearing on August 10, 2012, protesting the closure of her FIP cash assistance case.

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 to complete 20 hours of job search weekly. The records presented at the hearing indicate that Claimant's attendance was deficient and provided a basis for non compliance and that the participation requirement was not met. For the week of June 4, 2012, the Claimant attended a total of 11 hours and was not present on June 7 and 8, 2012. (Exhibit 4). At the triage, and at the hearing, the Claimant contended that she could not attend Work First due to incurring late charges for picking her child up late from day care. The issue is whether the Claimant demonstrated good cause for her lack of attendance.

The dates the Claimant incurred late charges were June 6, 2012 and possibly June 7 2012. On June 6, 2012 the Claimant left Work First at 3 pm and did not arrive at the day care until 6pm. The Claimant testified that the bus she rode broke down. On June 7, 2012, the Claimant did not attend Work First I, but the records show that the Claimant dropped her child at day care at 8am and picked her up at 5:40. The Claimant did provide information requested by the Department at the triage, within 10 days, and the information does establish the hours of operation of the daycare and the late fee of \$1 per minute and that she was late picking up her child on June 6, 2012.

Based of the above Findings of Fact and Conclusions of Law, the testimony of witnesses and the documentary evidence received, it is determined that the Department should have reviewed the documents it received from the Claimant on July 2, 2012 and should have made a determination whether the documents demonstrated good cause.

It is unclear why or whether the records were not reviewed, as neither the Claimant's then-case worker, or the DHS representative at the triage reviewed the paper work. The Work First program witness did speak with the DHS representative who attended the triage and she indicated that no documents were received. Neither the person in attendance at the triage or the then-caseworker testified at the hearing. Therefore, it is determined that the Department incorrectly closed the Claimant's case, as it never made a final good cause determination based upon the Claimant's submission.

DECISION AND ORDER

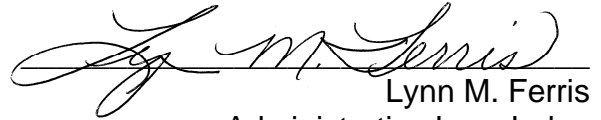
The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department correctly closed the Claimant's cash assistance FIP case, and incorrectly imposed a 3 month sanction closing the Claimant's case for noncompliance with work related activities for non participation with the Work First program. Accordingly, the Department's determination is REVERSED.

Accordingly it is ORDERED:

1. The Department shall reinstate the Claimant's FIP case retroactive to the date of closure (8/1/12) and shall determine Claimant's eligibility for FIP benefits based upon its determination as to whether the Claimant has good cause for non participation with the Work First program based upon the day care submission requested by the Department and provided by the Claimant.
2. The Department shall review the documents submitted by the Claimant on July 2, 2012, (2 pages) which were contained in the Claimant's case file, and determine whether the documents demonstrate good cause with regard to the Claimant's day care barrier regarding late fees.
3. The Department shall issue a Notice of Case Action regarding its decision with regard to good cause and sanction, and, if good cause is found, the Department shall issue a supplement for FIP benefits the Claimant is otherwise entitled to receive in accordance with DHS policy and remove the previous sanction it imposed from its records and Claimant's case file.
4. If the Department determines the Claimant does not have good cause after reviewing the documents submitted by the Claimant, the Department shall advise the Claimant in writing of its decision by Notice of Case Action. Any sanction imposed shall not be an additional sanction. The Department shall

2012 70763 /LMF

credit the Claimant for any time already expired as a result of the sanction it previously imposed by the Notice of Case Action issued 7/13/12 closing the Claimant's FIP case effective 8/1/12.


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

Date Signed: 10/25/2012

Date Mailed: 10/25/2012

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

2012 70763 /LMF

cc:

