

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2013 11066
Issue No. 1038,
Case No. [REDACTED]
Hearing Date: January 23, 2013
Wayne County DHS (41)

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 23, 2013. The Claimant appeared and testified. [REDACTED], JET Case Manager, appeared on behalf of 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 and Food Assistance (FAP) benefits.
2. The Department did not present a copy non-compliance Warning Notice letter dated 9/28/12 requesting the Claimant re-engage with the Work First program at a meeting scheduled for 10/4/12.
3. The Notice of Non-Compliance dated 10/5/12 scheduled a triage for 10/11/12. The Notice of Non-Compliance indicated no participation in required activity 10/5/12. Exhibit 3.
4. The Claimant did not attend the triage because her mother was admitted to the hospital on that date. The Claimant provided a note to the work first program on the date of the triage indicating that she could not attend because her mother

was being operated on. The Claimant dropped the note in the drop box. No work first program files were available at the hearing.

5. The Claimant was sent to triage because she did not attend a meeting to discuss the JET Non-Compliance Warning Notice. The actual letter Warning Notice was not submitted at the hearing.
6. The Claimant did not receive the Non-Compliance Warning Notice.
7. The Department issued a Notice of Case Action (Intended Action) dated 10/5/12 closing the Claimant's FIP case effective 11/1/12 and imposing a second sanction which closed the Claimant's FIP case for 6 months. Exhibit 2
8. The Notice of Case Action also reduced Claimant's FAP benefits due to non-participation in FAP employment-related activity for the period 11/1/12 through 11/30/12. The Department conceded at the hearing that the FAP benefit reduction was in error as the Claimant has two children under 6 years of age and agreed to correct the error.
9. The Claimant requested a hearing on 11/7/12 protesting the closure of her FIP cash assistance case and the imposition of a 6 month sanction for non-attendance.

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 non-compliance 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 results in a 3 month FIP closure. BEM 233A The third occurrence results in a 12 month sanction.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss non-compliance 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 non-compliance is FIP closure. 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 non-compliance is FIP closure. BEM 233a provides direction to the Department as follows when determining good cause:

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.

In this case the evidence presented did not establish that the Non-Compliance Warning Notice was sent to the correct address as no letter was presented. Thus the Claimant established good cause for not attending the October 4, 2012 re-engagement meeting as she credibly testified that she did not receive the letter and thus had no notice of the meeting. The Claimant's alleged failure to attend the re-engagement meeting on 10/4/12 was the sole basis for the Claimant being found in non-compliance and placed in triage. Additionally, the Claimant demonstrated that she provided the Work First Program an updated phone number on 9/26/12 when she was in attendance on that date. When Work First attempted to contact the Claimant the program used the incorrect phone numbers.

Additionally, the Claimant credibly testified that on 9/26/12 she advised the Work First program that her sister-in-law had passed away and she needed to assist making funeral arrangements and provided proof to the Work First program. The program person she spoke to said that she would take care of it. No one from the Work First program attended the hearing and thus the Claimant's testimony was not rebutted.

On the date of the triage the Claimant did not attend the triage as the evidence established that Claimant's mother was admitted to the hospital. The Claimant advised

the Work First program of the situation and left a note in the drop box indicating her mother had been admitted to the hospital and indicated that she could not attend the triage. Under these circumstances the triage should have been rescheduled but was not.

On the basis of the evidence presented and the testimony of both the Claimant and the Department, it is found that there was no basis for the sanction that was imposed as the Claimant attended the program and never received the non-compliance warning notice; therefore, the finding of no good cause at the triage was not appropriate under the facts and circumstance presented.

After reviewing the documents submitted at the hearing and the testimony of the parties provided under oath, it is determined that the Department did not meet its burden of proof to demonstrate that it correctly determined that the Claimant failed in her Work First participation requirements or failed to demonstrate good cause.

Based on the above Findings of Fact and Conclusions of Law and the testimony of witnesses and the documentary evidence received, the Department has not 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 6 month sanction. BEM 233A.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department incorrectly closed the Claimant's cash assistance FIP case, and improperly imposed a 6 month sanction on closing the Claimant's case for non-compliance 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 initiate reinstatement of the Claimant's FIP case retroactive to the date of closure (11/1/12).
2. The Department shall supplement the Claimant for any FIP benefits she was otherwise entitled to receive in accordance with Department policy.
3. The Department shall remove from its records the 6 month sanction it imposed on the Claimant as a result of a triage.
4. The Department shall initiate correction of the error that it conceded at the hearing when it removed the Claimant from her FAP group due to non-

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participation with Work First as the Claimant had two children under the age of 6 years at the time of the closure on 11/1/12.

5. The Department shall initiate recomputation of the FAP benefits and issue a supplement to the Claimant for FAP 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: January 30, 2013

Date Mailed: January 30, 2013

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 at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:

