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

IN THE MATTER OF:



Reg.No. Issue No. Case No. Hearing Date: 2013 32594 1038, April 3, 2013

Wayne County DHS (31)

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 Ap ril 3, 2013 from Detroit, Michigan. T he Claimant appeared and testified. FIS, appeared on behalf of the Department.

ISSUE

Whether the Department correctly sanc tioned 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 t he 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 Department sent the Claimant a No tice of Non-Complianc e on November 19, 2012 indicating that the Claimant did not meet her participation requirements on November 19, 2012.
- 3. The Notice of Non-Compliance scheduled a triage for November 28, 2012.
- 4. The Claimant did not att end the triage. The Claimant did not receive the Notice of Non-Compliance. At the triage the Department found no good cause.

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- 5. No Department or Work First individual that attended the triage was available for the hearing.
- 6. The Claimant provided the Department a medical n eeds form in November 2012 advising the Department that her son, who suffers from seizures, had to attend physical therapy.
- 7. On December 1, 2012 the Department cl osed the Claimant's FIP case and imposed a 3 month sanction for non-complia nce with Work First participation without good cause. Exhibit 9
- 8. No Depart ment representative or Work First representative that attended the triage attended the hearing.
- 9. The Non-c ompliance Warning Notice was not signed or addressed to the Claimant.
- 10. The Claimant requested a hearing on January 2, 2013 pr otesting the clos ure 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 60 1, *et seq.* The Department of Human Services ("D HS" 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 participat e in employ ment and self-sufficiency related activities and to ac cept employment when offered. BEM 233A All Work E ligible Individuals ("WEI") as a condition of e ligibility must engage in employment and/or self-sufficiency related activities. BEM 233A The WEI is consid ered non-c ompliant f or 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 reas on for non-compliance with employment and/or self -sufficiency related activit ies that are based on f actors that are beyond the control of the non-compliant person. BEM 233A Failure to comply without good c ause results in FIP closure. BEM 233A T he first and second oc currences of non-compliance r esults in a 3 month FIP closur e. BEM 233A The third occurrence results in a 12 month sanction.

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JET participants will not be te rminated from a JET program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM osure, the Department is r equired to send the client a 233A In processing a FIP cl notice of non-compliance, DH S-2444, which must include the date(s) of the noncompliance; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A In addit ion, a triage must be hel d within the negative actio n period. BEM 233A A good caus e 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 employm ent and/or self-suffi ciency-related activities that are based on factors that are beyond the control of t he Claimant. BEM 233A. The penalty for noncompliance is FIP closure. However, a fail ure to participate can be overcome if the client h as good ca use. Good c ause is a valid reaso n for failing to participate with employment and/or s elf-sufficiency-related activities that are bas ed on factors that are beyond the control of the Claimant. BEM 233A. The penalty for non-compliance is FIP closure. BEM 233a provides dir ection to the Department as follows when determining good cause:

Determine good caus e 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 Claimant credibly testified that she was attending Work First and presented a medical needs form to the Diepartment in November 2012 regarding heir r son who riequired physical ther apy due to seizioures causing her to miss Work First. Claimant did not receive her in Notice of Non-Compliance and thus did not attend the triage. No one from the Department or Work First was available to attend the hearing. It is unclear from the record presented with hether a triage was held and whether noncompliance was found and the basis for non- compliance. Additionally the Department did not have the casid efficient in the case record was the Notice of Non-Compliance. The Claimant is credibly testified that she provided several medical needs forms to time to the Department prior to Noveign medical and after. The Claimant's testimony was credible and was unrebutted.

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

The Department did not demons trate that it followed Department policy regarding finding of good cause at the tri age as well as it did not proc ess or consider the medical needs form and therefore it is determined that the Department incorrectly found no good cause and instituted closure of the Claimant's FIP case.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds t hat the Department incorrectly closed the Claimant's cash ass istance FIP case, and improperly imposed a 6 month sancti on 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 initiate reinstatement of the Claimant's FIP case retroactive to the date of closure (12/1/12).
- 2. The Department shall s upplement the Claimant for any FIP benefits, if any, she was otherwise entitled to receive in accordance with Department policy.
- 3. The Department shall remove from its records and the Claimant's case file the 3 month sanction it imposed on the Claim ant for non-compliance with work-related activities.

Senis

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

Date Signed: April 10, 2013

Date Mailed: April 10, 2013

NOTICE: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order . MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 ti mely 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:

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- A rehearing <u>MAY</u> 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

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

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