

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2013 33112
Issue No. 1038
Case No. [REDACTED]
Hearing Date: April 3, 2013
Wayne County DHS (76)

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 April 3, 2013. The Claimant appeared and testified. [REDACTED] FIM, and [REDACTED] Path Coach, 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.
2. The Claimant was assigned to attend the Work First program in September 2012 and attended and met her job search participation requirements.
3. The Claimant's participation requirements were 20 hours per week, 12 hours of community service performed 2 days per week for 6 hours per day and 8 hours of job search.
4. The Claimant did not attend community service or job search after attending community service one time.

5. At the time the Claimant attended Work First the Claimant had 2 twin babies and a two year old child.
6. The Claimant was assigned to attend community service and did not attend after the first day. The Claimant received the Notice of Non-Compliance dated February 15, 2013 after the triage had been conducted.
7. A triage was held by the Department on February 22, 2013 at which time the Department found the Claimant in non-compliance with Work First requirements without good cause.
8. The Department issued a Notice of Case Action on February 15, 2013 closing the Claimant's FIP cash assistance case as of March 1, 2013 and imposing a lifetime closure sanction upon the Claimant.
9. The Claimant did not apply for Child Development and Care at the time of Work First orientation. As part of the orientation the Claimant advised the Work First program that she had three young children. Exhibit.
10. The Claimant requested a hearing on February 28, 2013 protesting the closure of her FIP Cash Assistance.

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 weekly of job search and community service combined. The records presented at the hearing indicate that Claimant's attendance was deficient and that the participation requirement was not met.

The evidence did demonstrate that the Claimant did not attend Work First community service after the first date she attended. The Claimant did ask for another location to perform community service as it was on the opposite side of town from where she lived but no action was taken before her case was closed.

Based upon the testimony provided by the Claimant, it is determined that the Claimant did not take the steps necessary and available to her to insure that she could continue to successfully attend Work First. At no time did the Claimant apply for Child Day Care so that she could attend. The Claimant testified that she was told by Work First that child day care was only for persons who were working. The Claimant's testimony in this regard is not credible particularly because the Work First program is established to engage individuals to be independent and assist them in finding employment.

Based upon the Claimant's testimony, it is determined that the Claimant failed to take the requirements of Work First seriously, failed to seek assistance and apply for Child

Day Care Benefits, and failed to keep up with her mail causing her to miss her triage. The Notice of Non-Compliance was sent to Claimant's mailing address which she provided to the Department. As a result of the Claimant's inaction her FIP case was closed and due to the current sanction will be closed permanently due to the current non-compliance being the third sanction applied to the Claimant for non-compliance without good cause.

At the hearing the Department was requested to provide proof of the number of sanctions previously imposed so no mistake with regard to a lifetime closure was made. It was confirmed at the hearing that the current sanction is the Claimant's third sanction and thus lifetime closure of FIP benefits is correct. Exhibit 2. The information provided further supported that the Claimant had previously been assigned to Work First and understood the process of non-compliance and presenting good cause reasons for non-participation.

The only evidence to support a good cause was that Claimant had to take her children to the hospital on January 20, 2013 for ringworm. This incident does not however support her failure to complete her responsibilities with regard to her Work First assignment for community service.

The evidence presented demonstrated that the Department held a triage and that at the triage the Department determined that the Claimant had failed to meet her weekly participation requirements of 20 hours for several weeks and that good cause was not established. 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 attend the triage due to not retrieving her mail. The Department correctly found no good cause and instituted closure of the Claimant's FIP case. The Claimant's inaction with regard to attending Work First and not communicating with the program caused the sanction to be properly imposed.

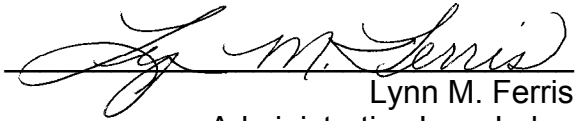
Based on the above Findings of Fact and Conclusions of Law and the testimony of witnesses and the documentary evidence received, the Department has demonstrated that it correctly followed and applied Department policy in closing and sanctioning the Claimant's FIP case for non-compliance without good cause and imposing a lifetime closure 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 correctly closed the Claimant's cash assistance FIP case, and correctly imposed a lifetime closure sanction closing the Claimant's case for non-

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compliance 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: April 11, 2013

Date Mailed: April 11, 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:

