

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

IN THE MATTER OF:



Reg.No. 2013 4943
Issue No. 1038
Case No. [REDACTED]
Hearing Date: December 11, 2012
Wayne County DHS (18)

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 December 11, 2012. The Claimant appeared and testified. [REDACTED], Jet Case Manager, appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's cash assistance (FIP) for failure to participate in the Work First program 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 recipient of Cash Assistance (FIP).
2. At the time she was assigned to attend Work First orientation on September 4, 2012 the Claimant was working part time.
3. The Claimant received the Work First appointment notice and called her caseworker to reschedule, as she required 2 weeks' advance time to request a day off from her employer to attend the orientation.
4. The Claimant did not receive a call back from the Department to reschedule the orientation. Exhibit 2
5. The Claimant was assigned to attend Work First orientation on 9/4/12.

6. The Department scheduled a triage to be held on September 21, 2012 at 9:00 a.m. The Claimant attempted to reschedule the triage before the triage date as she was facing suspension and was required to attend a hearing at her job regarding double scanning a coupon scheduled on the same date and time as the triage. Exhibit 3.
7. The Claimant did not attend the triage.
8. The Claimant's caseworker did not reschedule the triage.
9. The Department closed the Claimant's FIP case on October 1, 2012 for failure to attend the Work First orientation appointment. Exhibit 1
10. The Claimant requested a hearing on October 11, 2012 protesting the closure of her FIP 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") are required to participate in the development of a Family Self-Sufficiency Plan ("FSSP") unless good cause exists. BEM 228 As a condition of eligibility, all WEIs 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

In this case the Claimant did not attend the Work First orientation she was scheduled to attend because she had to go to work, and she credibly testified that her employer's work rules required a full 2 week's advance notice to request time off. The Claimant contacted the Department right after she received the appointment notice and none of her several calls were returned.

Additionally, the Claimant credibly testified that she advised the Department that on the date of the scheduled triage that she had a mandatory meeting with the store manager for the same date and time of her scheduled triage. The Claimant again credibly testified that she attempted to contact the Department to reschedule the triage. The Claimant did not receive a call back and the triage was held and the Department found no good cause and closed the Claimant's FIP case.

Under these circumstances it is determined that the Claimant took reasonable and prompt action to reschedule both the orientation and the triage to no avail. The Claimant had to put her continuing part-time employment first so that she did not jeopardize her job. The Claimant credibly testified that she would have lost her job had she not attended a scheduled disciplinary meeting with the store manager. Under these circumstances the Claimant demonstrated good cause why she missed the scheduled orientation and thus the Department should not have closed the Claimant's case without first responding to the Claimant's request to reschedule the orientation date. Based upon the Claimant's credible testimony and the Claimant's efforts to reschedule the orientation appointment well in advance of the date, it is determined that the Department improperly closed her FIP case for failure to attend the Work First orientation.

Under these circumstances the Department should not have closed the Claimant's FIP case as she was entitled to reschedule the orientation date and called to reschedule before the orientation was held. The Claimant did everything she was required to do to preserve her case and her employment. The Claimant also was also denied an opportunity to reschedule the triage.


Based on the foregoing facts and testimony of the witnesses and documentary evidence received, the Department improperly closed the Claimant's FIP case.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department improperly closed the Claimant's FIP case for failure to attend the Work First Orientation as the Claimant was not afforded the opportunity to reschedule the orientation date. Therefore the Department's determination denying the Claimant's application for FIP is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall initiate reinstatement of the Claimant's FIP case retroactive to the date of closure (10/1/12) and process the case in accordance with FIP eligibility requirements in accordance with Department policy.
2. The Department shall issue a supplement to the Claimant for any FIP benefits she was otherwise entitled to receive in accordance with Department policy.
3. The Department shall remove the 3 month sanction it imposed for non compliance with Work First participation without good cause from the Claimant's case file and the Department's records.


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

Date Signed: December 13, 2012

Date Mailed: December 13, 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.

2012-4943/LMF

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/cl

cc:

