

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

IN THE MATTER OF:

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Reg.No. 2013 50350
Issue No. 1038
Case No. ██████████
Hearing Date: June 27, 2013
Wayne (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 June 27, 2013. The Claimant appeared and testified. ██████████, FIS, and ██████████ Taylor Path Coordinator, appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's cash assistance (FIP) application for failure to attend Work First Orientation.

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 a recipient of cash assistance (FIP).
2. The Claimant was assigned to attend Work First orientation on several dates, the last date in question was April 15, 2013. Exhibit 1
3. The Claimant called the Department prior to the orientation date to reschedule as she had a job interview on the day of orientation.
4. The Department did not reschedule the orientation appointment.
5. The Claimant was told to attend orientation and to request permission to leave for the interview.

6. The Claimant reported to orientation and requested permission to leave for her interview and was denied by the Path program.
7. The Claimant was told that she had to attend orientation and could not be excused and was told to contact her caseworker. The Claimant's case worker told her there was nothing she could do.
8. The Claimant left orientation for her interview and was given an offer of employment which she began the following week.
9. The Department issued a Notice of Non Compliance on April 23, 2013 scheduling a triage. Exhibit 2
10. On April 23, 2013 the Department issued a Notice of Case Action wherein the Department closed the Claimant's FIP case effective June 1, 2013 and imposed a 3 month sanction for noncompliance with the Path program requirements for failure to attend the orientation appointment. Exhibit 4
11. The Claimant timely requested a hearing on June 5, 2012 protesting the denial of both her FIP applications.

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 PATH program 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 attend the Work First program appointment as she was directed by her worker. When she requested permission to leave for her interview she was told that she could leave but would not be credited as attending orientation. The undersigned finds it ironic that the Claimant could not go to a job interview for a job which is one of the goals of the Path Program. The Claimant left orientation and went to the interview and was given a job offer which she started the following week. Claimant Exhibit A.

The Claimant, prior to the Work First orientation, did attempt to reschedule the orientation date because of her interview and was denied. The denial was improper. All Path Appointment Notices provide that persons call their DHS specialist “**before** you miss your appointment. You must reschedule your appointment as soon as possible ...” Exhibit 1.

It also appeared that the Department when advised of the interview as the reason for rescheduling should have advised the Path Program to arrange for the Claimant to leave. Based upon the Claimant’s credible testimony and the Claimant’s efforts to reschedule the orientation appointment in a timely manner, and her attendance at the PATH orientation as directed by her Specialist, it is determined that the Department improperly closed the Claimant’s FIP case. The Department was required to reschedule the appointment before it closed the Claimant’s FIP case as she had contacted the Department within 20 days of the appointment Notice. The Path Appointment Notice gives notice that Claimant’s must call or appear within 20 days of the notice. In this case the Claimant did meet the 20 day requirement and should have been given the opportunity to reschedule the Work First appointment. Based upon the facts and the Claimant’s credible testimony, the Claimant still had time remaining to reschedule but the Department instead improperly denied the FIP application for failure to attend the Work First orientation.

Under these circumstances the Department should not have closed the Claimant’s case. The Claimant did everything she was required to do to preserve her application and prevent her case from closing.

Based on the foregoing facts and testimony of the witnesses it is determined that the Department improperly closed and sanctioned the Claimant’s FIP case for failure to attend the Path Orientation.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department improperly denied the Claimant’s FIP application for failure to attend the Work First Orientation as the Claimant was not afforded the

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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 June 1, 2013.
2. The Department shall issue a supplement to the Claimant for any FIP benefits Claimant was otherwise entitled to receive in accordance with Department policy.
3. The Department shall remove from the Department records and correct the Bridges system to remove the 3 month sanction it imposed as a result of a triage held on May 2, 2013.



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

Date Signed: July 3, 2013

Date Mailed: July 3, 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:

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- 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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