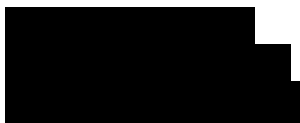


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg.No. 2013 17500
Issue No. 1038
Case No. [REDACTED]
Hearing Date: February 4, 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 February 4, 2013. The Claimant appeared and testified. [REDACTED] 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 an ongoing recipient of Cash Assistance (FIP).
2. The Claimant was assigned to attend Work First orientation on November 26, 2012.
3. The Claimant did not attend Work First orientation as scheduled because her family member who was to care for her children on the date of orientation was not available when she attempted to drop her children off.
4. The Claimant went to the Work First program but was not admitted because she had her children with her.
5. Claimant advised her then caseworker that she had no day care but was not provided an application for CDC benefits so that she could attend Work First.

6. On December 8, 2012 the Department issued a Notice of Case Action wherein the Department closed the Claimant's FIP case effective as of January 1, 2013 and imposed a 3 month sanction for failure to participate in Work First activities. Exhibit 2.
7. No one with actual knowledge regarding the triage was present at the hearing.
8. The Claimant requested a hearing on December 18, 2012 protesting the closure of her FIP case and imposition of a three month sanction.

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 because a relative who was to watch her children was unavailable when she went to drop the children off. The Claimant had previously requested CDC benefits but her case was transferred and no evidence regarding the CDC application was presented by the Department. Apparently a triage was held wherein the Claimant advised the participants present that she was without day care and thus could not attend orientation and had attempted to apply for CDC prior to her case being transferred. In this case the Claimant's failure to attend the orientation under these facts demonstrated good cause. In addition, this decision was also influenced by the fact that no one from either the Department or Work First attended the hearing to advise the basis for finding no good cause. It was also unclear from the evidence presented by the Department whether the Claimant could have rescheduled the orientation, as the date of the triage was not provided by the Department. Based upon the evidence provided the Claimant has demonstrated good

cause for failure to attend the orientation and therefore it is determined that the Department improperly closed her FIP case and improperly imposed a first sanction for failure to attend the Work First orientation.

Under these circumstances the Department should not have closed the Claimant's case as no information regarding the Department's action with regard to her request for day care was available nor was the basis for the triage outcome provided.

The Claimant had a baby on [REDACTED] and thus cannot be reassigned to attend Work First for two months. The Claimant should also anticipate that she will be reassigned to attend Work First and should, in anticipation of her assignment, make arrangements for child care and reapply for CDC benefits so that she can attend Work First.

Based on the foregoing facts and testimony of the witnesses the Department should not have closed the Claimant's FIP case and improperly imposed a 90 day sanction.

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 and imposed a 90 day first sanction for failure to attend the Work First Orientation. 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, January 1, 2012.
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 first sanction it imposed from the Department's records and the Claimant's case file.



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

Date Signed: February 13, 2013

Date Mailed: February 13, 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

LMF/cl

cc:

