

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

IN THE MATTER OF:



Reg.No. 2013 32456
Issue No. 1038
Case No. [REDACTED]
Hearing Date: 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 April 3, 2013 from Detroit, Michigan. The Claimant appeared and testified. [REDACTED] ES, Lead Worker, 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 applied for FIP cash assistance and was assigned to attend the Work First orientation on December 10, 2012 at 9:30 a.m.
2. The Claimant did not attend the orientation and did not provide the Department a letter from her 5-year-old son's Pediatrician that her child was severely autistic and that the Claimant was required to care for her son. The Claimant's son receives SSI. Claimant Exhibit A.
3. The Claimant mailed the Doctor's letter to her case worker prior to her orientation appointment.
4. The Department issued a Notice of Case Action on December 20, 2012 denying the Claimant's FIP application effective December 31, 2012.

5. The Department did not send the Claimant a medical needs form and did not process a deferral from the Work First program.
6. The Claimant requested a hearing on January 7, 2013 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 but prior to the orientation provided the Department with a letter from her son’s pediatrician advising the Department that her son was severely autistic and that he required to be cared for by the Claimant in her home. The Claimant provided the letter to the Department by mail prior to the orientation. Claimant Exhibit A.

The letter was never processed and the Claimant’s FIP application was denied when she failed to attend Work First orientation.

BEM 230 A provides:

A spouse or parent who provides care for a spouse or child with disabilities living in the home is not a WEI and is not referred to PATH if:

2013 32456/LMF

The spouse/child with disabilities lives with the spouse/parent providing care.

A doctor verifies all of the following in writing or by using a DHS-54A, Medical Needs, form or DHS-54E, Medical Needs-PATH:

The spouse/child with disabilities requires a caretaker due to the extent of the disability.

The spouse/parent is needed in the home to provide care.

The spouse/parent cannot engage in an employment-related activity due to the extent of care required.

BEM 230A, pp 15, (1-1-2013)

Based upon the letter presented by the Claimant to the Department, it is determined that pursuant to BEM 230A the Department was required to determine on the basis of the letter whether the Claimant was a work eligible individual.

Under these facts it is determined that the Department should have deferred the Claimant under the short term deferral provisions and sought the additional information, if any, it needed regarding the Claimant's care of her son and her son's condition.

Under these circumstances the Department should not have denied the Claimant's application as she was entitled to have the medical information processed and a determination made about whether she was non-work eligible due to having to care for her son.

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.


Therefore the Department's determination denying the Claimant's application for FIP is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall initiate re-registration of the Claimant's FIP application and process the application to determine if the Claimant is otherwise eligible to receive FIP benefits and whether she is a non-work eligible individual due to having to care for her son.

2013 32456/LMF

2. The Department may seek additional verification from the Claimant regarding the care of her child and her child's condition.
3. The Department shall issue a supplement to the Claimant for any FIP benefits she was otherwise entitled to receive in accordance with Department policy.


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

2013 32456/LMF

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cc:

