

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2013 32942
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. The Claimant appeared and testified. [REDACTED], Jet Worker, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's cash assistance (FIP case for failure to attend Work First Orientation and whether the Department properly imposed a three month sanction.

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 FIP benefits and was assigned to attend Work First orientation.#
- #
2. The Claimant was sent a Work Participation Appointment Notice on December 1, 2012 to attend orientation on December 17, 2012. Exhibit 1.#
- #
3. The Claimant did not attend the orientation appointment because she had to take her daughter to the hospital.#
- #
4. The Claimant attempted to reschedule the orientation by calling her caseworker several times and also appeared at the Department offices attempting to reschedule the Work First orientation. The orientation was not rescheduled.#

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5. On March 1, 2013 the Department closed the Claimant's FIP case by notice of case action dated February 20, 2013 for non-participation with Work First requirements. The Department imposed a 3 month sanction. #
- #
6. A Notice of Non-Compliance was sent to the Claimant on December 28, 2012 scheduling a triage for January 9, 2013. #
- #
7. The Claimant did not attend the triage as she did not receive the Notice of Non-Compliance. #
- #
8. The Claimant requested a hearing on February 22, 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 non-compliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. BEM 233A

In addition the Claimant credibly testified she received the Notice of Appointment but did not attend the orientation because her child was ill and she had to take her child to the hospital. After the missed appointment, the Claimant credibly testified that she attempted to reschedule the orientation with Work First and was referred by Work First to consult with her caseworker. The Claimant credibly testified that she attempted to contact her caseworker and left several messages but did not hear back. Additionally she appeared in person at the District Office to attempt to reschedule the orientation appointment but was not advised to schedule an appointment with her caseworker. The Claimant also was scheduled to attend a triage on January 9, 2013. The Claimant did not attend the triage because she did not receive the Notice of Non-Compliance.

Based upon the testimony of the parties, the Claimant has demonstrated a good cause basis for her failure to attend orientation due to having to take her sick child to the hospital and thus has demonstrated good cause for her failure to attend orientation. Additionally Claimant attempted to reschedule the orientation and was unsuccessful after leaving several phone messages for her caseworker and appearing personally at the Department offices to reschedule. The Claimant's efforts to reschedule were reasonable. Under these facts and circumstances the Department improperly closed the Claimant's FIP case. BEM 233A

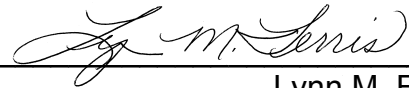
The Department shall initiate reinstatement of the Claimant's FIP case and issue a FIP supplement the Claimant was otherwise eligible to receive, if any in accordance with Department Policy.

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 and had a good cause reason for her failure to attend. Therefore the Department's determination closing the Claimant's FIP case is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall initiate reinstatement of the Claimant's FIP case retroactive to the date of closure (March 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 its records and the Claimant's case file the 3 month sanction that it imposed pursuant to a triage January 9, 2013.



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:

