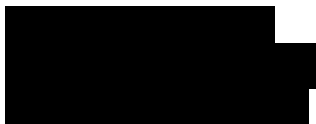


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg.No. 2013 6986
Issue No. 1038,
Case No. [REDACTED]
Hearing Date: January 10, 2013
Wayne County DHS (55)

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 January 10, 2013. The Claimant appeared and testified. The Department of Human Services was notified but did not appear.

ISSUE

Whether the Department properly sanctioned and closed the Claimant's cash assistance (FIP) case for noncompliance with work-related activities 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 assigned to attend the Work First program on August 29, 2012 and September 17, 2012 for orientation. The Claimant did not attend the program on either date.
2. The Claimant testified that on August 23, 2012 she showed her then case worker that she had a Personal Protective Order due to domestic violence. The Order expired August 24, 2012.
3. The Department issued a notice of noncompliance on September 11, 2012, scheduling a triage for September 17, 2012.
4. The Claimant did not attend the triage.

5. The Department determined at the triage that the Claimant had not demonstrated good cause.
6. The Claimant was sanctioned and her FIP case closed effective October 1, 2012 and her FAP benefits reduced for a 6 month period and applied a second sanction.
7. The Department issued a notice of case action on September 11, 2012 which sanctioned and closed the Claimant's FIP cash assistance case for noncompliance with work-related activities for 6 months and removed the Claimant from her FAP group and reduced her FAP benefits.
8. No Department personnel or Work First personnel attended the hearing.
9. The Claimant requested a hearing on September 25, 2012 protesting the imposition of a sanction and the closure of her FIP case and reduction of her FAP benefits.

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 Failure to comply without good cause results in FIP closure. BEM 233A The first and second occurrences of non-compliance results in a 3 month FIP closure. BEM 233A The third occurrence results in a 12 month sanction.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A In addition, a triage must be held within the negative action period. BEM 233A A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A.

Good cause is demonstrated when factors outside of the control of the non compliant person causes them to be absent domestic violence is such a reason. In this case the Claimant did not produce a current personal protective order and had no witnesses or other document to support her claim of domestic violence. The Claimant read a letter from her attorney in the record which indicated that the alleged abuser perpetrating the domestic violence was incarcerated on [REDACTED], not in regards to domestic violence but due to some other crime. Overall based upon the Claimant's testimony, and even considering an expired personal protective order the undersigned was unconvinced that the Claimant was unable to attend either of the Work First orientations due to domestic violence issues. At the triage it was determined that the Claimant had not demonstrated good cause and her FIP case was closed and a second sanction was applied.

The Department's decision in this case is upheld. Although domestic violence is per se good cause for non-attendance at the Work First program as a classic unplanned event or factor, BEM 233A p 5, the Claimant did not present any details except an expired Personal Protective Order and a letter from an attorney indicating that the alleged abuser had been incarcerated on some other basis. The Claimant's testimony did not establish continuing domestic violence or that domestic violence was the reason that she did not attend either assigned orientation at Work First.

Domestic violence means one or more threats or acts against any family member concerning any of the following:

- Physical injury.
- Sexual abuse.
- Sexual involvement of a dependent child.
- Mental/emotional abuse.
- Neglect or deprivation of medical care.

Defer parents and caretakers with a documented claim of threatened or actual domestic violence, against themselves or their dependent children, that can reasonably be expected to interfere with work requirements.

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Assist the client to develop a plan intended to overcome domestic violence as a barrier to self-sufficiency. The plan may include participation in services for domestic violence victims or receipt of related professional care. Specific activities which might reasonably be expected to endanger the client should be avoided. Document the clients' agreement in the FSSP. BEM 230A pp8.

A deferral may have been supported by the Claimant's situation had she attended the triage and presented the Department with additional evidence of domestic violence, police reports or an updated current Personal Protective Order, but the Claimant did not attend the triage and no additional information was provided at the hearing.

In conclusion, the Department under these circumstances properly closed the Claimant's case as no good cause could reasonably be determined based upon the Claimant's non-attendance at the Work First orientations she was assigned to attend. Therefore, it is determined that the department, based upon the information available to it at the time of the triage, properly closed the Claimant's case and imposed a second sanction for non-participation with work-related activities. BEM 233A

The Claimant is cautioned that the imposition of a third sanction for noncompliance with Work First participation may result in a lifetime disqualification.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law find that the Department improperly closed and sanctioned the Claimant's FIP case for 6 months as the Claimant did not demonstrate good cause for her failure to attend the Work First program, and therefore its determination is AFFIRMED.



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

Date Signed: January 16, 2013

Date Mailed: January 16, 2013

LMF/cl

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

LMG/cl

cc:

