

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2012 53490
Issue No. 1038
Case No. [REDACTED]
Hearing Date: June 14, 2012
Wayne County DHS (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 14, 2012. The Claimant appeared and testified. [REDACTED], FIS Case Manager appeared on behalf of the Department.

ISSUE

Whether the Department correctly sanctioned and closed the Claimant's cash assistance (FIP) for non compliance 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 and was required to participate for 20 hours per week.
2. A triage was held on April 4, 2012 and the Claimant was found in non compliance without good cause.
3. The Department issued a Notice of Case Action on 4/27/12 which closed the Claimant's FIP cash assistance case for a lifetime effective 6/1/12.
4. On August 5, 2011 a triage was held and the Claimant was found to have good cause and no sanction was applied.
5. The Claimant conceded that she had another triage prior to August 2011, wherein she was found in non compliance without good cause.

6. The Claimant requested a hearing on May 7, 2012 protesting the closure of her FIP cash assistance and imposition of a lifetime closure 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") as a condition of eligibility 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 occurrence 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. However, a failure to participate can be overcome if the client has good cause. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the Claimant. BEM 233A. The penalty for noncompliance is FIP closure. However, a failure to participate can be overcome if the client has good cause. The penalty for noncompliance is FIP closure.

In this case, the issue is concerns the number of sanctions applied to the Claimant by the Department for non compliance with the Work First program requirements without good cause. The evidence presented by the Department established that two triages were held, one in August 2011 which resulted in a finding of good cause and one in

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April 2012 (the most recent triage) which resulted in a finding of no good cause and imposition of a sanction. The Department introduced no evidence of a prior triage being held before August 2011, however the Claimant credibly testified that there was another triage where she was found to be in non compliance without good cause. The evidence clearly established that the triage in April 2012 was the second triage with a no good cause outcome, and therefore a 6 month closure sanction should have been applied, not a lifetime closure.

Based upon the evidence presented at the hearing, the Department did not establish that the Claimant was deemed in non compliance with Work First requirements without good cause three times. Therefore, its imposition of a lifetime sanction was in error.

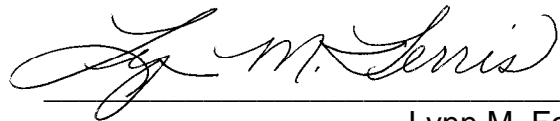
Based of the above Findings of Fact and Conclusions of Law, the testimony of witnesses and the documentary evidence received, it is determined that the Department issued a lifetime sanction in error and therefore must correct its Notice of Case Action to indicate a 6 month closure, not a lifetime closure. BEM 233 A.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department incorrectly imposed a lifetime sanction and closed the Claimant's cash assistance FIP case. Accordingly, the Department's determination is REVERSED.

Accordingly it is ORDERED:

1. THE Department shall reinstate the Claimant's FIP case and shall issue a correct Notice of Case Action with closure as of 6/1/2012 to reflect that the Claimant FIP case is to close for 6 months, as a result of the triage of 4/27/12.
2. The Department shall correct its records and the Claimant's case record to reflect that the Claimant was subject to a second sanction as a result of the 4/27/12 triage, not a third sanction (for closure due to non compliance with Work First without good cause).



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

Date Signed: June 22, 2012

Date Mailed: June 22, 2012

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:

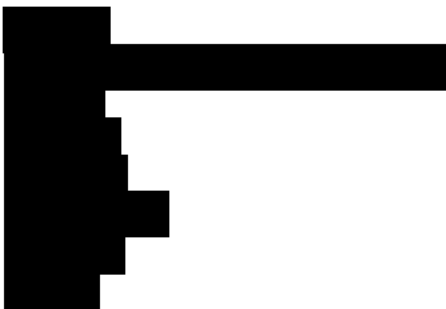
- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical 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 to:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:



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