

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

IN THE MATTER OF:



Reg.No. 2012 59293
Issue No. 1038
Case No. [REDACTED]
Hearing Date: July 26, 2012
Wayne County DHS (35)

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 July 26, 2012. The Claimant appeared and testified. [REDACTED], FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly closed and sanctioned the Claimant's cash assistance case (FIP) for failure to attend and participate in the Work First Program.

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 cash assistance and was assigned to attend the Work First Program.
2. On January 5, 2012 the Claimant was placed on a thirty day compliance test by the Work First Program to reengage her participation, as she had not been attending the program.
3. From January 28, 2012 through February 1, 2012, the Claimant was hospitalized for renal failure and diabetes complications. Claimant Exhibit 1.
4. On January 24, 2012 the Claimant advised her caseworker that she wished to have her cash assistance case closed.

5. On April 4, 2012 the Claimant requested a hearing and provided a written letter requesting that her cash assistance case be closed.
6. The Department sent a Notice of Non Compliance with Work Related Activities to the Claimant on 3/29/2012, scheduling a triage for April 5, 2012.
7. The Claimant and her spouse did not attend the triage scheduled for April 5, 2012.
8. The Claimant was found in non compliance and her FIP case closed 7/1/12 for 6 months, due to a second sanction for non compliance without good cause after the triage.
9. The Claimant requested a hearing on June 12, 2012 protesting the failure of the Department to close her case and the imposition of a 6 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 Program and requested by telephone that her cash assistance case (FIP) be closed on January 24, 2012. The Claimant had been ill and was having difficulty attending Work First. The Department did not close the case as requested, but instead issued a Notice of Non Compliance and scheduled a triage for April 5, 2012. The case closed as of July 1, 2012 due to a

finding of no good cause after triage. BEM 233A provides policy which governs this situation:

When FIP is expected to close for a reason unrelated to noncompliance (including verbal or written client request), use the following guidelines:

If a DHS-2444, Notice of Employment and/or Self-Sufficiency-Related Noncompliance, is issued to a noncompliant person before his/her verbal or written request for case closure or for any other reason, proceed with the noncompliance determination. If the client does not have good cause for the noncompliance, follow procedures outlined in this item under Processing the FIP Closure.

If a DHS-2444, Notice of Employment and/or Self-Sufficiency-Related Noncompliance, has not been issued before the verbal or written request for closure, or closure is initiated for any other reason, do not proceed with the noncompliance determination. BEM 233A, page 11.

In this case, the Department (pursuant to BEM 233A), should have closed the case when requested by the Claimant. The Department appropriately documented the request for closure but did not close Claimant's case because of a request by the Department that the Claimant put the request in writing, due to prior misunderstanding/conflict between the concerned parties. Notwithstanding its request, the Department should have closed the case when requested by the Claimant on January 24, 2012 and indicated that the closure was per the Client's request. The resulting refusal to grant the request for closure resulted in a sanction being imposed against the Claimant, which would not have been otherwise imposed if the case had closed when requested.

Therefore, it is found that the Department improperly imposed a sanction on the Claimant due to her failure to participate in the Work First Program, as no sanction was appropriate because closure had been requested prior to the issuance and mailing of the Notice of Non Compliance.

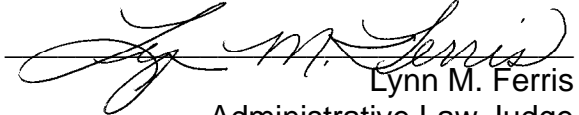
DECISION AND ORDER

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 improperly imposed a second 6 month closure sanction for failure to participate in the Work First Program. Therefore the Department's determination closing the Claimant's FIP case is REVERSED.

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Accordingly, it is ORDERED:

1. The Department shall initiate removal from its records and the Claimant's case record, the second sanction for non participation with work related activities it imposed against the Claimant in the Notice of Case Action dated 6/4/12.
2. The Department shall close the Claimant's FIP case as of the Claimant's request of January 24, 2012, and shall provide the Claimant notice of its action in accordance with Department Policy.


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

Date Signed: August 1, 2012

Date Mailed: August 1, 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:

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

LMF /hw

cc:

