

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

[REDACTED]

Reg No.: 2012-62144
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 23, 2012
Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Thursday, August 23, 2012. The Claimant appeared and testified. The Claimant was represented by [REDACTED] Participating on behalf of the Department of Human Services ("Department") was [REDACTED] and [REDACTED]

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits effective July 1, 2012 based on the failure to comply with the Jobs, Education, and Training ("JET") 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 a FIP recipient.
2. On May 25, 2012, the Department sent a Notice of Non-compliance to the Claimant, instructing her to attend a June 5, 2012 triage appointment. (Exhibit 2)
3. The Claimant did not call/attend the triage.

4. The triage was conducted without the Claimant, resulting in a no good cause determination. (Exhibit 1, p. 1)
5. On June 11, 2012, the Department sent a Notice of Case to the Claimant informing her that her FIP benefits were scheduled for closure effective July 1, 2012 based on the failure to participate in employment and/or work-related activities. (Exhibit 3, p. 1, 2)
6. On June 15, 2012, the Department received a letter from the Claimant, reportedly signed on May 30, 2012, seeking to reschedule the "June 5th hearing" because her Authorized Hearing Representative was unable to attend. (Exhibit 4)
7. On June 28, 2012, the Department received the Claimant's written Request for Hearing. (Exhibit 3, p. 3, 4)

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

The Family Independence Program ("FIP") was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department, formerly known as the Family Independence Agency, administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children ("ADC") program effective October 1, 1996.

The Food Assistance Program ("FAP"), formerly known as the Food Stamp program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations ("CFR"). The Department, formerly known as the Family Independence Agency, administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3001 through R 400.3015.

The Medical Assistance ("MA") program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations ("CFR"). The Department of Human Services, formerly known as the Family Independence Agency, administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program ("AMP") is established by 42 USC 1315, and is administered by the Department of Human Services pursuant to MCL 400.10, *et seq.*

The State Disability Assistance ("SDA") program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services, formerly known as the Family Independence Agency, administers the SDA

program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3151 through R 400.3180.

The Child Development and Care (“CDC”) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, Rules 400.5001 through R 400.5015.

The Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 233A, p. 1 (May 2011). All Work Eligible Individuals (“WEI”), and non-WEIs, are required to work or engage in employment and/or self-sufficiency-related activities. BEM 233A, p. 1 (May 2011). Failure to participate in employment or self-sufficiency-related activities without good cause is penalized. BEM 233A, p. 1 (May 2011). Penalties include a delay in eligibility at application, ineligibility, or case closure for a minimum of 3 months for the first episode of non-compliance, 6 months for the second occurrence, and a lifetime closure for the third episode of non-compliance. BEM 233A, pp. 1, 6 (May 2011). 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, p. 3 (May 2011).

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A, p. 7 (May 2011). Clients can either attend the triage or participate in a conference call if physical attendance is not possible. BEM 233A, p. 7 (May 2011). Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 8 (May 2011). Good cause is based on the best information available during the triage and prior to the negative action date and must be considered even if the client does not participate. BEM 233A, p. 8, (May 2011). 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 or the date the client was considered to be non-compliant; the reasons the client was determined to be non-compliant; and the penalty duration. BEM 233A, p. 9 (May 2011)

In this case, on May 25, 2012, the Department sent a Notice of Non-compliance to the Claimant instructing her to appear for a triage appointment on June 5, 2012 at 10:15 a.m. The Claimant acknowledged receipt of the Notice and testified that she requested the appointment be rescheduled noting that she had signed the log and had dropped off a written request on May 30th. During the hearing, the Department pulled the sign-in logs for May 30th, May 31st, and June 1, 2012. The Claimant’s signature was not there. The letter requesting the rescheduling of the triage (although it was noted as a hearing) was date-stamped June 15, 2012, well after the June 5th triage date.

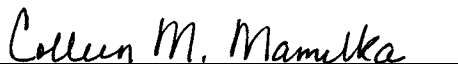
The Department conducted the triage, absent the Claimant, resulting in a no good cause determination. On June 11, 2012, the Department sent a Notice of Case Action informing the Claimant that her FIP benefits would terminate effective July 1, 2012 based on the failure to participate in employment and/or self-sufficiency-related activities. The Claimant testified that on June 15th, she submitted her Request for Hearing, despite the fact that the triage adjournment request corresponds with this date. Conversely, the Request for Hearing was date-stamped by the Department on June 28, 2012. The Department testified that items placed in the drop box are removed and date-stamped two times a day. Ultimately, under the facts presented, the Department's testimony coincided succinctly with the evidence presented as opposed to the conflicting testimony of the Claimant. Accordingly, it is found that the Department established by a preponderance of evidence that it acted in accordance with Department policy when it terminated the Claimant's FIP benefits and imposed the 3-month sanction based on the Claimant's failure to comply with the employment and/or self-sufficiency related activities.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department established by a preponderance of evidence that it acted in accordance with Department policy when it terminated the Claimant's FIP benefits and imposed the 3-month sanction based on the failure to comply with the employment and/or self-sufficiency related activities.

Accordingly, it is ORDERED:

1. The Department's determination is AFFIRMED.
2. The 3-month sanction for JET non-compliance is imposed.


Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 29, 2012

Date Mailed: August 29, 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 at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CMM/cl

cc:

