

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

IN THE MATTER OF:



Reg.No. 2012 73001  
Issue No. 1038  
Case No.   
Hearing Date: October 25, 2012  
Wayne County DHS (76)

**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 October 25, 2012. The claimant appeared and testified. FIS, appeared on behalf of the Department.

**ISSUE**

Whether the Department correctly sanctioned and closed the Claimant's cash assistance (FIP) 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 an ongoing participant of the Work First program and was an ongoing recipient of FIP benefits. The Claimant attended a training program for Medical Assistant.
2. The Claimant attended a refresher course 4 hours per day from April 23, 2012 through the beginning of her externship on May 1, 2012.
3. The Department sent the Claimant a Notice of Noncompliance on May 23, 2012 indicating that the Claimant did not meet her participation requirements of 20 hours per week for the required activity for April 20, 2012.
4. The Department sent a notice of noncompliance to the Claimant on May 23, 2012. The Notice scheduled a triage for June 1, 2012. The Notice indicated the noncompliance due to failure to participate in required activity. Exhibit 2.

5. The Claimant did attend the triage. At the triage the Department found no good cause for the Claimant's failure to provide externship time records on the Work First program time sheets. The Claimant did demonstrate that she attended the externship program at the triage.
6. During the period of April 20, 2012, the Claimant attended a refresher course on April 23, 2012 in lieu of Work First participation which was approved by the Work First program and then attended an externship program for medical assistant completion approved by the Work First program.
7. At the hearing the Claimant produced an externship time sheet advising her Work First supervisor of her 20 hours participation for Marche and part of June, 2012. Claimant Exhibit 1
8. On June 5, 2012 the Department closed the Claimant's FIP case effective July 1, 2012 and imposed a three month sanction for noncompliance with Work First participation without good cause. Exhibit 3
9. No Department representative or Work First representative that attended the triage attended the hearing.
10. The Claimant requested a hearing on August 28, 2012 protesting the closure of her FIP cash assistance 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") 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 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 noncompliance, 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. 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. BEM 233a provides direction to the Department as follows when determining good cause:

Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or the work participation program.

In this case, the Claimant attended with Work First approval a refresher course and externship also approved by the Work First program as meeting Work First requirements. The Claimant provided proof at the triage that she attended the externship with participation hours in excess of 20 hours per week. The Claimant's testimony was very clear and credible. The Claimant also established that the Work First program knew that she would be attending the refresher course for the entire period prior to beginning her approved externship. No one from the Work First program or department who attended the triage attended the hearing and thus Claimant's credible testimony was un rebutted.

After reviewing the documents submitted by the Claimant at the hearing and the testimony of the parties, it is determined that the Department did not meet its burden of proof to demonstrate that it correctly determined that the Claimant failed in her Work First participation requirements or failed to demonstrate good cause. The Claimant credibly testified that she would be in a refresher course until her externship began and so advised her Work First manager, and thus it is determined that she was approved to attend the refresher course in lieu of Work First.

Proof of participation was provided by the Claimant and therefore it is determined that she demonstrated good cause. Claimant Exhibit 1.

The evidence presented demonstrated that the Department held a triage and that at the triage the Department determined that the Claimant had failed to meet her 20 hours per week participation requirements and thus was in noncompliance. The Department did not demonstrate that it followed Department policy regarding finding of good cause at the triage, and thus Department incorrectly found no good cause and instituted closure of the Claimant's FIP case.

Based on the above Findings of Fact and Conclusions of Law and the testimony of witnesses and the documentary evidence received, the Department has not demonstrated that it correctly followed and applied Department policy in closing and sanctioning the Claimant's FIP case for noncompliance without good cause and imposing a 3 month sanction. BEM 233A.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department incorrectly closed the Claimant's cash assistance FIP case, and improperly imposed a 3 month sanction closing the Claimant's case for noncompliance with work-related activities for non-participation with the Work First program. Accordingly, the Department's determination is REVERSED.

Accordingly it is ordered:

1. The Department shall initiate reinstatement of the Claimant's FIP case retroactive to the date of closure (July 1, 2012).
2. The Department shall supplement the Claimant for any FIP benefits she was otherwise entitled to receive in accordance with Department policy.
3. The Department shall remove from its records the 3 month sanction it imposed on the Claimant as a result of a triage conducted June 1, 2012.



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

Date Signed: October 30, 2012

Date Mailed: October 30, 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

LMF/cl

cc: 