

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201240865
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: April 23, 2012
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 23, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED] Family Independence Manager.

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment-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. Claimant was an ongoing recipient of FIP benefits and was required to participate in employment-related activities.
2. On February 7, 2012, the Department sent Claimant a Notice of Noncompliance scheduling a triage on February 21, 2012.
3. Claimant participated in the triage.

4. The Department held the triage and found that Claimant had failed to comply with employment-related activities without good cause.
5. On March 6, 2012, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective April 1, 2012 based on a failure to participate in employment-related activities without good cause.
6. The Department imposed a first second third sanction for Claimant's failure to comply with employment-related obligations.
7. On March 20, 2012, Claimant filed a request for a hearing disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (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 1999 AC, R 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

In order to increase their employability and obtain employment, work eligible individuals (WEI) seeking FIP are required to participate in the Jobs, Education and Training (JET) Program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A; BEM 233A. Failing or refusing to attend or participate in a JET program or other employment service provider without good cause constitutes a noncompliance with employment or self-sufficiency related activities. BEM 233A.

JET participants will not be terminated from a JET program without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. Good cause is a valid reason for noncompliance which is beyond the control of the noncompliant person. BEM 233A. Good cause must be based on the best information available during the triage and prior to the negative action date. BEM 233A.

Additionally, in this case, in December 2012, Claimant notified the worker for the Michigan Works Agency (MWA), the agency through which she was participating in employment-related activities, that she was employed. In January 2012, the MWA contacted Claimant and learned that she was no longer employed. Claimant advised the Department that she had enrolled in Wayne County Community College in December 2011 and was attending classes part-time. She did not provide any verification of her schooling.

The Department scheduled a triage on February 21, 2012, and found that Claimant had failed to comply with work-related activities without good cause and closed Claimant's FIP case effective April 1, 2012, for a three-month minimum period.

At the hearing, the Department testified that Claimant's FIP case was closed because Claimant had failed to present any documentation supporting the fact that she was attending school. However, all work-eligible individual (WEI's), unless temporarily deferred, must either engage in employment that pays at least state minimum wage or participate in employment services. BEM 230A. An 18 year old adult group member is considered a WEI and must attend the work participation program, regardless of school attendance. BEM 230A. Therefore, while Claimant's failure to provide documentation of her school attendance would not serve as a basis for a deferral from participating in work-related activities, it could also not serve as a basis for finding that she had failed to comply with her work-related activities and justify closure of her FIP case.

Claimant testified that she informed the triage participants that she was interested in participating in the MWA program but when she spoke to her MWA worker shortly after her employment ended and told her that she wanted to reengage in MWA activities, her worker informed her that, because of her school hours, she would not be able to participate in the MWA activities. Claimant's testimony, which established that Claimant was denied the opportunity to participate in work-related activities by her MWA worker, established good cause for her noncompliance. At the hearing, the Department presented no evidence countering Claimant's testimony that she wanted to participate with the work participation program but was denied the opportunity to do so. Because the Department failed to satisfy its burden of establishing that Claimant had no good cause for her noncompliance with work-related activities, the Department did not act in accordance with Department policy when it closed Claimant's FIP case effective April 1, 2012.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly closed Claimant's FIP case. improperly closed Claimant's FIP case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

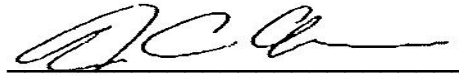
did act properly. did not act properly.

Accordingly, the Department's FIP decision is AFFIRMED REVERSED for the reasons stated above and on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FIP case as of April 1, 2012;

2. Remove the FIP noncompliance sanction from on or about February 21, 2012, from Claimant's record;
3. Issue supplements for FIP benefits Claimant was eligible to receive but did not from April 1, 2012, ongoing;
4. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: April 30, 2012

Date Mailed: April 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

ACE/cl

CC:

