

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201245376
Issue No. 1038
Case No. [REDACTED]
Hearing Date: May 9, 2012
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant to MCL 400.9 and MCL 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was held on May 9, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Manager; [REDACTED] Family Independence Specialist; and [REDACTED] Triage Coordinator for the JET Program.

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. The Department alleged that Claimant did not comply with her employment-related activities and scheduled a triage on March 27, 2012.
3. Claimant did not participate 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 an unspecified date, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case effective May 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 April 5, 2012, Claimant filed a request for a hearing disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are found 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 Mich Admin Code, R 400.3101 through R 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. The Department must send the client a Notice of Noncompliance notifying them of the noncompliance and the triage date and time.

In this case, the Department testified that it sent Claimant a Notice of Noncompliance dated March 20, 2012, notifying her of a triage scheduled on March 27, 2012, at 9:00 am. Claimant credibly testified that she did not attend the triage because she did not receive the Notice. Claimant testified that she did in fact come to the Department's

office on the morning of March 27, 2012, to speak to her worker for assistance following a break-in at her home the previous week. During the course of her conversation with her worker, the worker reviewed her file and informed her that she had a triage at the same location earlier that morning that she had missed. The worker was at the hearing and verified that Claimant had come to speak to her and was not aware that she had missed her triage. The facts in this case support Claimant's contention that she did not receive the Notice of Noncompliance. Thus, the Department did not act in accordance with Department policy when it closed Claimant's FIP case for failure to comply with employment-related activities where Claimant was not properly notified of the triage.

Furthermore, the triage coordinator at the hearing testified that Claimant's explanation for her noncompliance would have established good cause. 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. Good cause may be verified by information already on file with the Department or the work participation program. BEM 233A. Good cause **must** be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A.

In this case, Claimant presented documentation at the hearing to establish that she was unable to attend 2 ½ days of her JET program orientation activities because she did not have gas or electricity in her home and had to be at home in order to have DTE address her utility issues. Claimant testified that she had presented documentation of DTE's activities at her home to her JET worker to support her absences and get them excused. At the hearing, the JET triage coordinator reviewed Claimant's JET file, found the documentation presented by Claimant to her JET worker, and testified that, if that documentation had been in the file that she reviewed at the triage, it would have been sufficient to establish Claimant's good cause for her noncompliance. Because the documentation to support her absences was in her JET file, Claimant would have been able to establish good cause for her noncompliance at a properly held triage.

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.

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Accordingly, the Department's 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. Remove the FIP sanction from on or about March 27, 2012, from Claimant's record;
2. Reinstate Claimant's FIP case effective May 1, 2012; and
3. Issue supplements for any FIP benefits Claimant was eligible to receive but did not from May 1, 2012, ongoing.



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

Date Signed: May 15, 2012

Date Mailed: May 15, 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:

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- 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
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/cl

cc:

