

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2013 12180
Issue No. 1038,
Case No. [REDACTED]
Hearing Date: January 17, 2013
Wayne County DHS (17)

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 January 17, 2013. The claimant appeared and testified. [REDACTED] appeared as an interpreter for the Claimant. [REDACTED] Case Manager, and [REDACTED] FIS Case Manager, appeared on behalf of the Department.

ISSUE

Whether the Department correctly sanctioned and closed the Claimant's cash assistance (FIP) for non-compliance 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 recipient of FIP benefits.
2. The Claimant was requested to complete a FAST and provide it to the Department by August 2, 2012. Exhibit 1
3. The Claimant with assistance for Lutheran Services Completed a FAST and turned the confirmation number into the Department.
4. The Department did not receive the FAST.
5. A triage was scheduled for 10/18/12 to determine if there was good cause for the failure to complete a FAST.

6. The Claimant appeared at the Department on 10/18/12 and waited 2 hours and was told by his caseworker that no interpreters were available and the DHS system was down so the Claimant was advised to leave.
7. On 11/1/12 the Department closed the Claimant's FIP case and imposed a 3 month sanction for non compliance for failure to complete a FAST without good cause. The Notice of Case Action was dated October 10, 2012.
8. The Claimant does not read English well and needed assistance completing the FAST. The Claimant is also on SSI.
9. The Claimant requested a hearing on 10/15/12 protesting the closure of his 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.

In this case as part of the participation requirements to receive FIP benefits the Claimant was required to complete a FAST. The Claimant did seek assistance in completing a FAST due to his language barriers and believed he completed a FAST. The Claimant also appeared at the triage appointment to review his non compliance for failure to complete a FAST and was sent away after waiting 2 hours for an interpreter. The appointment for the triage was not rescheduled by the Department. The Claimant's testimony was credible and on the basis of his testimony it is determined that he had good cause for the fast non completion due to a computer error that was not within his

control and that he also attended the triage appointment but was not referred by the Department to the proper Department employee due to his then caseworkers error. Under these circumstances it is determined that the Department should not have closed the Claimant's case as no triage was conducted even though the Claimant appeared and reported as scheduled. Therefore the imposition of a sanction and three month closure under these facts was also in error. 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.

Because the Claimant's testimony was credible and no testimony to the contrary was provided by the Department, the Department did not establish a basis for non compliance under the facts presented the Department did not meet its burden of proof.

Therefore it is determined that the Department did not properly close the Claimant's FIP case for failure to complete a FAST as no triage was afforded so the Claimant could present good cause. On the basis of this testimony it is found that there was not basis for the sanction that was imposed.

After reviewing the documents submitted at the hearing and the testimony of the parties provided under oath, it is determined that the Department did not meet its burden of proof to demonstrate that it correctly determined that the Claimant failed to complete a FAST and was not provided an opportunity to demonstrate good cause no basis for the finding of no good cause was established.

Based on the above Findings of Fact and Conclusions of Law and the testimony of witnesses and the documentary evidence admitted, the Department has not demonstrated that it correctly followed and applied Department policy in closing and sanctioning the Claimant's FIP case for non compliance 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 (11/1/12).
2. The Department shall supplement the Claimant for any FIP benefits if any, he was otherwise entitled to receive in accordance with Department policy.
3. The Department shall allow the Claimant to complete another FAST and assist the Claimant in completing the FAST so any language barriers can be overcome.
4. The Department shall remove from its records and the Claimant's case file the 3 month sanction it imposed on the Claimant for non compliance with work related activities for failure to complete a FAST.



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

Date Signed: January 25, 2013

Date Mailed: January 25, 2013

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:

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

LMF/cl

Cc:

