

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201323835
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: 04/01/2013
County: Oakland County (#04)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

AMENDED HEARING DECISION

This Amended Hearing Decision is being issued to remove the second paragraph in the Order Section of the initial Hearing Decision:

“If the Department grants the Claimant a deferral from the work participation program after reviewing the Claimant’s medical documentation, then the 3-month FIP sanction for non-compliance will not be imposed from the date of closure”.

The decision clearly affirmed the Department’s action. It further incorrectly states that the three month sanction will not be imposed if the Department determines the Claimant eligible for a deferral. If the Department subsequently grants Claimant a deferral from work participation the deferral will pertain to future benefits and does not affect the past action taken by the Department as a result of Claimant not establishing good cause for non-compliance with work related activity in accordance with policy.

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 conducted from Detroit, Michigan on Monday April 1, 2013. The Claimant appeared and testified along with [REDACTED] (Representative). Participant on behalf of the Department of Human Services (Department) was [REDACTED] (Family Independence Specialist).

ISSUE

Whether the Department properly closed the Claimant’s cash assistance program (“FIP”) for non-compliance with employment related activity.

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 FIP recipient that was a mandatory participant in the Work Participation Program.
2. On December 1, 2012, the Department sent a Work Participation Program Notice to the Claimant scheduling him for an appointment to attend orientation on December 18, 2012. (Exhibit 1)
3. On December 18, 2012, at the request of the Claimant's representative, the Department mailed a Medical Determination Verification Checklist requesting the Claimant to return medical documentation which included a medical social questionnaire and Psychological examination report due by December 28, 2012. (Exhibits 2 & 3)
4. The Claimant did not return the requested verifications by the due date.
5. On December 28, 2012, the Department sent a Notice of Non-compliance with Employment Related Activities instructing the Claimant to attend triage on January 4, 2013. (Exhibit 4)
6. On this same date, a Notice of Case Action was mailed to the Claimant, informing him that his FIP benefits would terminate effective February 1, 2013, based on the Claimant's failure to participate with employment related activity. (Exhibit 5)
7. The Claimant did not attend or call the triage and the Department determined that good cause did not exist for the failure to participate, as required, in the Work Participation Program.
8. A three month sanction was imposed for a first FIP non-compliance.
9. On January 8, 2013, the Department received the Claimant's written request for hearing disputing the action.

CONCLUSIONS OF LAW

The Department of Human Services (DHS) 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) is temporary cash assistance to support a family's movement to self sufficiency. It 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.

As a condition of FIP eligibility the Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A (January 2013), p. 1. All Work Eligible Individuals ("WEI"), and non-WEIs, are required to work or engage in employment and/or self-sufficiency-related activities to increase their employability and obtain employment. BEM 233A, p. 2. Failure to participate in employment or self-sufficiency-related activities without good cause is penalized. BEM 233A, p. 7. 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, p. 6. 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.

Recipients will not be terminated from a work participation program without the Department first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A, p. 4. Clients can either attend the triage or participate in a conference call if physical attendance is not possible. BEM 233A. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A. Good cause is based on the best information available during the triage *and* prior to the negative action date. An individual who identifies barriers, to include being physically or mentally unfit for job activity, may be temporarily deferred from work program participation. BEM 229 (December 2011), p. 1. Persons who identify a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred for up to three months. The Department will verify the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs, or DHS-54E- Medical Needs, or other written statement from an M.D./D.O. BEM 230A (December 2011), p. 8. If an individual claims a disability that will last longer than 90 days, the Department should request verification of the disability and obtain a Medical Review Team (MRT decision).

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of necessary forms. BAM 105 (November 2012), p. 5. The Department has the responsibility of telling the client what verification is required, how to obtain it, and the due date. BAM 130 (May 2012), p. 1. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. The client must obtain any required verification, however, the Department must assist if needed and/or requested. BAM 130, p. 3. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide

the requested verification. BAM 130, p. 5. A negative action notice is sent when the client indicates a refusal to provide the verification, or the time period provided has lapsed and the client has not made a reasonable effort to provide the verifications. BAM 130, p. 5. In processing a FIP closure due to non-compliance with employment related activity, 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 reason the client was determined to be non-compliant; and the penalty duration. BEM 233A, p. 5. If good cause is established within the negative action period, benefits are reinstated and the client is sent back to the work participation program. BEM 233A, p. 5.

In this case, the Claimant was required to participate in the work participation program because he did not have a current deferral. He acknowledged timely receipt of the medical verification form that was due by December 28, 2012, and receipt of the notice of non-compliance instructing him to attend a triage on January 4, 2013, to discuss good cause for non-compliance. Neither Claimant, nor his representative, attended or called the Department worker on the day of the triage. As a result the Department determined that good cause did not exist for Claimant's non-compliance. The Claimant's representative testified that she left a message for the Department worker on January 3, 2013 requesting to reschedule the triage. The Department worker testified that she did not receive any messages regarding rescheduling triage for the Claimant. Policy provides that clients must comply with triage requirements and provide good cause verification within the negative action period. Here, the Claimant did not comply with triage, nor provide verification of good cause prior to the closure of his case, as required. Notably, as of the date of hearing, the Claimant still had not submitted the requested medical documentation to the Department. The medical documentation is required to determine deferral eligibility. While Claimant asserts he currently has the completed medical documentation to submit to the Department, it is subsequent to the case action and will be processed by the Department in accordance with policy.

Based on the evidence on record, the Department established that it acted in accordance with policy when it terminated the Claimant's FIP benefits effective February 1, 2013. Accordingly, the action is upheld.

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 acted in accordance with policy when it terminated the Claimant's FIP benefits effective February 1, 2013.

Accordingly, it is ORDERED:

1. The Department's determination is hereby, **AFFIRMED**.

M. Howe

MICHELLE HOWIE
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/29/2013

Date Mailed: 5/29/2013

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:
 - 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

MH/hw

cc:

