

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2013 24756  
Issue No. 1038  
Case No. [REDACTED]  
Hearing Date: February 25, 2013  
Wayne County DHS (18)

**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 February 25, 2013 from Detroit, Michigan. The Claimant appeared and testified. [REDACTED], FIS, [REDACTED], Jet Coordinator, and [REDACTED] FIM, 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 and imposed a second sanction (6 months) ?

**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 MRT on December 6, 2012 found the Claimant work-ready with limitations to attend the Work First program.
2. The Claimant was assigned to attend the Work First program orientation and did not attend January 2, 2013.
3. A Notice of Case Action was issued January 7, 2013 notifying the Claimant that the Claimant's FIP cash assistance case would close effective February 1, 2013

for six months due to non-participation with the Work First program without good cause. Exhibit 1.

4. The Department held a triage by telephone on January 16, 2013. The Department determined that the Claimant did not demonstrate good cause. At the triage the Claimant advised the Department that she suffered from anxiety and panic attacks. The Claimant did not return to Work First after orientation.
5. The Department at no time held a planning triage when Claimant did not attend Work First orientation.
6. As part of processing a deferral request from Work First participation, the Department met with the Claimant and reviewed her impairments and doctors so that a medical packet could be prepared and sent to the MRT.
7. The Department prepared a Social Summary dated October 19, 2012. Exhibit 3.
8. The Department sanctioned and closed the Claimant's FIP case effective January 1, 2013 for 6 months when it found no good cause because Claimant had not demonstrated good cause for failure to attend Work First after the MRT decision.
9. The medical contact worker who completed and compiled the medical packet sent to MRT did not attend the hearing.
10. The Claimant requested a hearing on January 16, 2013 protesting the closure of her FIP cash assistance and the imposition of a 6 month sanction.

### **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 second occurrences of non-compliance results in a 6 month FIP closure. BEM 233A The third occurrence results in a lifetime disqualification from receiving FIP benefits.

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 to the client a notice of non-compliance, 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.

In this case the Claimant was assigned to attend Work First orientation and did not attend. The Claimant credibly testified that at the interview with the medical contact worker she advised the medical contact worker that in October 2012 she was diagnosed with diabetes and also had to wear slippers due to foot problems and suffered panic attacks daily. Based upon the case record this appeared to be new information. In general the Department is to obtain evidence of the impairment such as DHS 49, Medical Social Questionnaire, and then evidence is forwarded to the MRT. BEM 260. The Social Summary prepared by the Department on October 19, 2012 indicated and notes diabetes onset October 20, 2012 and mid back pain onset September 2012 and otherwise confirms the Claimant's testimony and mentions that the Client cannot wear shoes. All this information was provided to the Department prior to the MRT decision and prior to the Claimant's assignment to attend Work First. None of these conditions were medically documented or assessed by the MRT, nor was medical evidence obtained by the Department. This information was provided to the Department prior to the MRT Determination on December 6, 2012. The entire medical packet sent to the MRT was not reviewed or submitted at the hearing, only a medical needs form indicating no reference to diabetes or panic attacks or foot problems necessitating the wearing of slippers. The medical needs form was dated June 15, 2012, prior to the

Social Summary prepared by the Department. It is determined that based upon the foregoing, the Department should have processed another deferral as the new medical information was not reviewed by the MRT and further verification of Claimant's medical conditions should have been obtained and then provided to the MRT.

It was also unclear as to whether a planning triage should have been conducted. When a client who is determined by Medical Review Team (MRT) to be work-ready with limitations becomes noncompliant with PATH, schedule a planning triage, which includes all of the following:

Review the medical packet including the limitations identified by MRT on the DHS-49-A-E.

If necessary, revise the FSSP using the limitations identified on the DHS-49-A-E. Assign medically permissible activities.

Enter good cause reason *Client unfit* in Bridges on the Noncooperation details screen, if the noncooperation was related to the identified limitation or is an additional identified limitation. BEM 233 A

Subsequently, the Department had a phone triage with the Claimant and found no good cause as it determined that the Claimant had no new medical conditions. The Department did not send the Claimant a medical needs form requesting that additional information be provided. Subsequently, the Department closed the Claimant's case because no additional medical information was provided by Claimant.

As I find the Claimant's testimony credible regarding her advising the medical contact worker completing the Social Summary of her medical conditions and the fact that the Department did not provide a medical needs form or otherwise further process the new medical information and conditions, and thus the Department improperly closed Claimant's case.

Additionally, I find that the Claimant also should have been sent a medical needs form or other request for medical verification of her medical condition and the effects of her newly asserted medical conditions. BEM 230 A requires that for short term incapacity (less than 90 days) verification must be obtained by obtaining a medical needs form. Additionally for longer incapacity or when an MRT decision has already been issued and the Claimant is claiming a new medical condition, new verifications are to be obtained. Department of Human Services Bridges Eligibility Manual (BEM) 230 A, pp. 11 and pp.13 (1/2013).

Therefore, It is determined based upon the evidence presented at the hearing and the testimony of the parties that the Department did not comply with Department policy

regarding the requirements for obtaining additional medical verification with regard to the Claimant's medical conditions and did not provide a medical needs form.

Based on the above Findings of Fact and Conclusions of Law and for the reasons stated on the record at the hearing, 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 non-compliance without good cause and, therefore, also improperly imposed a 6 month sanction. BEM 230 A and BEM 233A

### **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 not act properly when it closed the Claimant's FIP case and imposed a 3 month sanction.

Accordingly, the Department's  AMP  FIP  FAP  MA  SDA  CDC decision is REVERSED for the reasons stated on the record and in this Decision.

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

did act properly when .  did not act properly when it closed Claimant's FIP case and imposed a 6 month sanction.

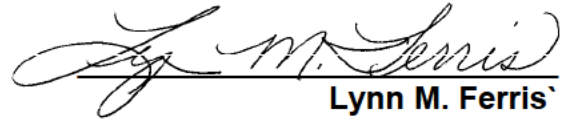
Accordingly, the Department's  AMP  FIP  FAP  MA  SDA  CDC decision is  AFFIRMED  REVERSED for the reasons stated on the record and as set forth in this Decision.

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

1. The Department shall reinstate the Claimant's FIP case retroactive to the date of closure February 1, 2013.
2. The Department shall issue a supplement to the Claimant for any FIP benefits she was otherwise entitled to receive, if any, as a result of the improper closure based upon non-compliance with Work First participation without good cause.
3. The Department shall remove the 6 month sanction it imposed for non-participation with Work First from the Claimant's case record and the Department's records.

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4. The Department shall provide the Claimant, as appropriate, a medical needs form which is to be completed and processed to determine if the Claimant must attend the Work First program based upon her current medical condition.



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

Date Signed: March 6, 2013

Date Mailed: March 6, 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

LMF/cl

cc:

