

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2013 2678
Issue No. 1038
Case No. [REDACTED]
Hearing Date: December 5, 2012
Wayne County DHS (55)

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 December 5, 2012. The Claimant appeared and testified. [REDACTED], appeared as an interpreter. [REDACTED] FIM, and [REDACTED] FIS, 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 assigned to attend the work first program and did attend September 17, 2012 at orientation and presented a medical needs form.
2. The Department closed the Claimant's case when it found he did not meet his participation requirements due to no initial contact with work first.
3. The Department sent a notice of non compliance to the Claimant on September 24, 2012. The Notice scheduled a triage for October 1, 2012. The Notice indicated the non compliance due to failure to participate in the Jet program noting no initial contact with MWA(Michigan Works Agency). Exhibit 3.

4. The Claimant did attend the triage.
5. The Department held a triage and found that there was no good cause for the Claimant's failure to attend work first orientation.
6. The Case Notes noted that the Claimant did attend orientation and brought an updated medical needs form and was also going to provide the medical needs information to his caseworker. Claimant Exhibit 6.
7. The Department sanctioned and closed the Claimant's FIP case for 3 months on November 1, 2012 when it found no good cause because Claimant had been denied by MRT and did not attend work first.
8. The Department did not present the evidence considered at the triage thus it could not be determined if the new medical needs information submitted by Claimant to work first was different than that considered by MRT in April 2012.
9. No individual from the work first program or the Department who were present at the triage attended the hearing.
10. The Claimant requested a hearing on October 1, 2012 protesting the closure of his FIP cash assistance.

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 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 and at orientation did attend and presented a medical needs form dated September 14, 2012 signed by his treating doctor. The Claimant credibly testified that he also gave a copy of the medical needs form to his caseworker. No one from the Work First program or the Department with actual knowledge of the facts surrounding the medical needs form or the triage attended the hearing and did not present the documents that were considered at the triage. The Department took the position at the hearing that the Claimant had been denied by MRT on April 18, 2012 and that the Claimant presented no new evidence that he had a change in his medical condition. The MRT decision was presented but the medical information sent to the MRT was not presented so it could not be determined what information the MRT relied upon. The Department's hearing summary also indicated that SSA had denied his disability application. In fact, the Claimant has appealed the SSA decision and thus the SSA decision is not final.

Based upon the evidence presented by the Department at the hearing, it is determined that it did not meet its burden of proof to demonstrate the basis for its finding of no good cause at the triage held October 1, 2012. Exhibit 2.

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 triage requirements and the finding of no good cause for non compliance with the work first attendance requirements in support of the imposed sanction. BEM 233A The Department must consider medical evidence submitted and determine

whether the MRT should review the evidence and whether to grant a deferral. Further the denial by SSA when appealed does not form a basis to find no new medical evidence.

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 removing the Claimant from his FAP group and imposing a 3 month sanction. 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 and 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, finds that the Department did act properly when did not act properly when it closed Claimant's FIP case and imposed a 3 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 initiate reinstatement of the Claimant's FIP case retroactive to the date of closure November 1, 2012.
2. The Department shall issue a supplement to the Claimant for any FIP or FAP (removal from FAP group due to non compliance) benefits he was otherwise entitled to receive as a result of the improper closure based upon non compliance with work first participation without good cause.

3. The Department shall remove the 3 month sanction it imposed for non participation with work first from the Claimant's case record and the Department's records.



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

Date Signed: December 13, 2012

Date Mailed: December 13, 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

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cc:

