

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

**IN THE MATTER OF:**



Reg. No.: 201333358  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: April 3, 2013  
County: Oakland County (#03)

**ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE**

**HEARING DECISION**

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 Wednesday April 3, 2013. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistant Payment Supervisor) and [REDACTED] (Path Coordinator).

**ISSUE**

Whether the Department properly terminated the Claimant's cash assistance (FIP) benefits for non-compliance with employment related activities?

**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.
2. The Claimant was previously temporarily deferred from the Work Participation Program due to having a disabled dependent child.
3. On February 8, 2013, the Department sent a Work Participation Program Appointment Notice, instructing the Claimant's to attend the Partnership Accountability Training Hope (PATH) program on February 21, 2013. (Exhibit 1)

4. The Claimant did not attend the program; and as a result the Department sent a Notice of Noncompliance on February 26, 2013, instructing the Claimant to attend a triage on March 5, 2013 to discuss reasons for non-compliance. (Exhibit 2)
5. On this same date, the Department sent a Notice of Case Action informing the Claimant that the Department intended to terminate her FIP benefits, effective April 1, 2013, for non-compliance with employment related activity. (Exhibit 7)
6. The Claimant participated in a telephone triage with the Department. She provided additional medical documentation showing that her son is still suicidal due to mental health issues and she is his primary caregiver. (Exhibit 4)
7. The Claimant's son turned 18 years old in December 2012 and is not enrolled in school. As a result, the Department made a no good cause determination for non-compliance, because he is no longer a dependent child.
8. The Department also imposed a 6 month sanction for a second non-compliance.
9. On March 6, 2013, the Department received the Claimant's written hearing request.

### **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.

The Department requires recipients to participate in the Work Participation Program or other 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.

Work Participation Program participants will not be terminated from a work program without first being scheduled for a triage meeting with the Department to jointly discuss non-compliance and good cause. BEM 233A. 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. 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 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. 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.

In this case, the Claimant was previously deferred from participating in the PATH program because she had a child that required in-home supervision due to a mental/psychological condition. The Department system automatically referred the Claimant back to the PATH program after her son turned 18 years old in December 2012. After receiving the PATH appointment notice, Claimant contacted the Department and was instructed by a worker that all she needed was to submit updated medical documentation regarding her son's condition, which she did. It was later discovered that since the son turned 18 years old, the Claimant no longer met that criteria for deferral from the Work Participation Program. The Department did not clarify the policy with the Claimant until the triage discussion. At which time Claimant also alleged her own medical condition that prevented her from participating in the PATH program fully.

Evidence indicates the Claimant had no reason to know that she could not continue to be deferred from the PATH program based on her son's mental health condition since he recently turned 18 years old. Notably, the Department did not realize, or clarify, the policy with the Claimant until the triage; and had instructed her to simply provide additional medical documentation. Rather than refer the Claimant back to the PATH program after the triage, the Department made a no good cause determination and imposed a non-compliance sanction. Nothing in the record indicates the Claimant willingly refused to participate in the PATH program or was otherwise knowingly in non-compliance. While she was no longer eligible for deferral from the PATH program, she had a valid reason for why she did not attend the program on February 21, 2013. Under the circumstances of this case, the Department did not establish it acted properly when it terminated the Claimant's FIP benefits for non-compliance with employment related activity.

Accordingly, the Department's action is not 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 did not act in accordance with policy when it terminated Claimant's FIP benefits effective April 1, 2013.

Accordingly, the Department's FIP determination, is hereby, **REVERSED**.

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 benefits from the proposed date of closure, and supplement for lost FIP benefits (if any) that the Claimant was otherwise eligible and qualified to receive in accordance with Department policy.
2. The 6-month FIP sanction for a second non-compliance shall be removed and not imposed.
3. The Department shall refer the Claimant back to the Work Participation Program in accordance with Department policy.

*M. Howie*

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**Michelle Howie**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 4/11/2013

Date Mailed: 4/11/2013

**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:

