

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

IN THE MATTER OF:



Reg. No.: 201334370
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: April 8, 2013
County: Wayne County (#31)

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 Monday April 8, 2013. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) was [REDACTED] (Family Independence Specialist).

ISSUE

Whether the Department properly terminated Claimant's cash assistance (FIP) benefits and reduced the Food Assistance Program (FAP) 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 and FAP recipient.
2. The Claimant was previously temporarily deferred from the Work Participation Program for alleged disabilities.
3. On February 7, 2013, the Department sent Notice of Non-compliance to Claimant scheduling a triage on February 13, 2013 to discuss the reasons for non-compliance. (Exhibit 2)

4. On the same day, the Department sent Notice of Case Action informing Claimant that her FIP benefits would close and FAP benefits would decrease to \$900 effective March 1, 2013, due to her failure to participate in employment related activities. (Exhibit 3)
5. The 3-month non-participation sanction was also imposed. (Exhibit 3)
6. The Claimant attended triage and provided a previously submitted a Medical Needs form dated July 2012, asserting that she is still unable to participate with the work program due to a continuing disability.
7. The Claimant was told that she would receive a new medical packet in the mail to have completed by her doctor to submit updated medical forms to the case worker.
8. On March 1, 2013, the Claimant's FIP case closed and FAP benefits were reduced.
9. On March 4, 2013, the Department received the Claimant's written hearing request 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) 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 Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

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. Non-compliance without good cause with employment requirements for FIP may also affect FAP if both programs were active on the date of FIP non-compliance. BEM 233B (November 2012), p. 1. FIP 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. An individual is disqualified from a FAP group for non-compliance when the client had active FIP and FAP benefits on the date of the FIP non-compliance. BEM 233B, p. 2. The individual's removal from the FAP group results in reduction of FAP benefit amount. 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 program participants will not be terminated from the program without first scheduling a triage meeting with the client to jointly discuss with the Department non-compliance and good cause. BEM 233A, p. 7. 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. Department policy requires that good cause determinations must be considered with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A, p. 8. A recipient may disclose a disability and the need for reasonable accommodation at any time. BEM 230A (January 2013), p 2.

Clients who assert 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 is to 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). Once a client claims a disability he/she must provide DHS with verification of the disability when requested. If the client does not provide the requested verifications, the FIP will be placed into closure for failure to provide needed documentation.

In this case, the Claimant was previously deferred from the Work Participation Program for an alleged disability. The Department worker testified that the Claimant was sent notice to attend the Work Participation Program in November 2012. Claimant testified that she did not receive a notice to attend the work program in November 2012, but did receive the notice of non-compliance in February 2013. At triage, she was told by the worker that she would receive a new medical packet in the mail to submit updated medical documentation, but never received the packet. The Department representative

at hearing was not the worker that attended the triage, or previously handled the Claimant's case. Policy requires the Department to act upon a client's claim of disability by requesting verification. If the client does not provide the requested verification, then the Department is either to deny or close the FIP benefits. If the client provides medical documentation that shows a disability lasting more than 90 days, the Department is required to send the information to the Medical Review Team for a determination. Apparently, this was not done. Nothing in the record indicates that a verification checklist was sent or given to Claimant requesting updated medical documentation with a return date. In light of the foregoing, the Department has not established by a preponderance of the evidence that it acted in accordance with policy when it terminated the Claimant's FIP benefits and reduced the FAP benefits.


Accordingly, the Department's actions are 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 establish it acted properly when it terminated Claimant's FIP benefits, imposed a 3-month sanction for non-compliance and reduced the FAP benefits effective March 1, 2013. Accordingly, the Department's FIP and FAP 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 Claimant's FIP and FAP benefits, effective March 1, 2013.
2. The Department shall initiate a supplement for FIP and FAP benefits that Claimant was entitled to receive, effective March 1, 2013.
3. The Department shall act upon Claimant's claim of disability by requesting supporting medical documentation via verification checklist.
4. The Department shall notify the Claimant of any good cause determinations based on the requested medical documentation.



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

Date Signed: 4/17/2013

Date Mailed: 4/17/2013

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:

