

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

IN THE MATTER OF:



Reg. No.: 201335553
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: April 15, 2013
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 held on April 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for failure to comply with employment-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. Claimant applied for benefits received benefits for:
 - Family Independence Program (FIP). Adult Medical Assistance (AMP).
 - Food Assistance Program (FAP). State Disability Assistance (SDA).
 - Medical Assistance (MA). Child Development and Care (CDC).
 - Direct Support Services (DSS).

2. On January 22, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP case would close effective March 1, 2013 due to her failure to comply with employment-related activities without good cause.

3. On March 11, 2013, Claimant filed a hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), and the Department of Human Services 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 1999 AC, R 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Additionally, on January 22, 2013, the Department sent Claimant a Notice of Case Action advising her that, based on her noncompliance with employment-related activities without good cause, her FIP case would permanently close effective March 1, 2013.

As a condition of FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 1, 2013), p 1; BEM 233A (January 1, 2013), p 1. Failing or refusing to comply with assigned activities or participate in employment and/or self-sufficiency-related activities without good cause constitutes a noncompliance with employment-related required activities justifying closure of a client's FIP case. BEM 233A, pp 1-2.

In this case, Claimant was referred to a work participation program orientation in January 2013 that she admitted she did not attend. Thus, Claimant did not comply with employment-related activities. After Claimant did not attend the orientation, the Department sent her a Notice of Noncompliance on January 22, 2013, notifying her of the noncompliance and scheduling a triage on January 29, 2013. Claimant attended the triage. At the triage, the Department must consider whether Claimant had good cause for her nonattendance. BEM 233A, pp 7, 8. Good cause is a valid reason for the noncompliance based on factors beyond the control of the noncompliant client. BEM 233A, p 3. Good cause is based on the best information available during the triage and prior to the negative action date and may be verified by information already on file with the Department or the work participation program. BEM 233A, p 8. The Department testified that Claimant present no explanation at the triage for her failure to attend the orientation. Because it concluded that there was no good cause for the noncompliance, the Department closed Claimant's FIP case.

At the hearing, Claimant contended that she should have been deferred from the work participation program because she was working. Clients who are working a minimum of 40 hours per week at the state minimum wage and are paid for such employment are not referred to the work participation program because the client's participation in employment is meeting the FIP requirements. BEM 230A, p 7. Furthermore, working at least 40 hours per week on average and earning at least state minimum wage constitutes good cause for a noncompliance. BEM 233A, p 4.

In this case, the Department was aware Claimant was employed but testified that it referred her to the work participation program because she was not employed for a minimum of 40 hours weekly. In support of its position, the Department testified that it relied on paystubs Claimant had supplied showing employment in January 2013 of 51.7 hours in one biweekly pay period and 64.8 hours in another biweekly pay period. Claimant confirmed that the paystubs were accurate. Because there was no evidence that Claimant was employed for 40 or more hours per week, the Department acted in accordance with Department policy when it concluded that Claimant was not deferred from participating in the work participation program.

Claimant also testified at the hearing that she did not attend the orientation because she was scheduled to work that day. The Department countered that Claimant did not present this explanation at the triage or provide any verification of her work schedule on the orientation date. Claimant's testimony established that she did not contact the Department prior to the orientation date to reschedule her appointment. See BEM 229 (January 1, 2013), p 3. The Department credibly testified that Claimant did not call or make any contact prior to the triage to reschedule the orientation. See BEM 230A, p 4. Claimant did not provide any documentation from her employer at the hearing showing that she was scheduled to work on the orientation date. Under these circumstances, the Department acted in accordance with Department policy when it closed Claimant's FIP case for failure to comply with employment-related activities without good cause.

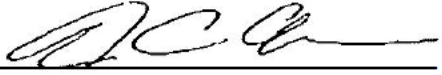
At the hearing, the Department presented documentary evidence from its system showing that the current occurrence of noncompliance without good cause was Claimant's third (Exhibit 2). Claimant confirmed that she had had two prior incidents of noncompliance. The Department penalizes clients for noncompliance with employment activities without good cause by closing the client's FIP case for not less than three calendar months for the first occurrence of noncompliance, for not less than six calendar months for the second occurrence of noncompliance, and permanently for the third occurrence of noncompliance. BEM 233A, p 6. Thus, the Department acted in accordance with Department policy in this case when it imposed a lifetime FIP sanction and permanently closed Claimant's FIP case.

DECISION AND ORDER

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly closed Claimant's FIP case and imposed a lifetime sanction on receipt of FIP benefits.

Accordingly, the Department's FIP decision is AFFIRMED.


Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 4/22/2013

Date Mailed: 4/22/2013

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

ACE/hw

cc:

