

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

**IN THE MATTER OF:**



Reg. No.: 2013-43229  
Issue Nos.: 1005, 1038  
Case No.: [REDACTED]  
Hearing Date: May 23, 2013  
County: Wayne (82-31)

**ADMINISTRATIVE LAW JUDGE:** Zainab Baydoun

**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 May 23, 2013, from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was [REDACTED].

**ISSUE**

Did the Department act in accordance with Department policy when it closed Claimant's Family Independence Program (FIP) case and imposed a lifetime sanction?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of FIP benefits.
2. On April 6, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on April 17, 2013, to discuss whether good cause existed for the noncompliance.
3. On April 6, 2013, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits effective May 1, 2013, and impose a lifetime sanction for noncooperation with employment-related activities.

4. Claimant's FIP case closed effective May 1, 2013, and a lifetime sanction was imposed.
5. On April 17, 2013, Claimant filed a request for hearing disputing the Department's actions.

### **CONCLUSIONS OF LAW**

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and State Emergency Relief Manual (ERM).

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.

As a condition of FIP eligibility, all Work Eligible Individuals (WEIs) must engage in employment and/or self-sufficiency-related activities. BEM 233A (January 2013), p. 1. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider, failing or refusing to appear for a scheduled appointment or meeting related to assigned activities, and failing or refusing to participate in employment and/or self-sufficiency-related activities. BEM 233A, pp. 1, 2.

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, pp. 3, 4. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p. 1. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 6.

Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 7. A triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp. 7-8.

In this case, Claimant was an ongoing recipient of FIP benefits. As a condition of receiving FIP benefits, Claimant was required to participate in the Partnership. Accountability. Training. Hope. (PATH) program and submit pay verification to the Department, as she was employed. At the hearing, the Department testified that on January 11, 2013, Claimant was placed in noncooperation with PATH because she did not submit the necessary pay verifications. The Department further testified that

because Claimant did not submit her pay verifications, on April 6, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on April 17, 2013, to discuss whether good cause existed for the noncompliance. Also on April 6, 2013, the Department sent Claimant a Notice of Case Action informing her that the Department intended to close her FIP case effective May 1, 2013, and impose a lifetime FIP sanction for a third occurrence of noncooperation with employment-related activities. BEM 233A. pp. 8-9; BAM 220 (November 2012), p. 9.

At the hearing, the Department testified that a triage was not conducted on April 17, 2013, because Claimant failed to appear. The Department further stated that a triage cannot be conducted without the Claimant being present. This is not correct. As discussed above, BEM 233A provides that a triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp. 7-8. Additionally, the Department testified that because Claimant did not attend the triage, the Department closed Claimant's FIP case and imposed a lifetime FIP sanction effective May 1, 2013.

Claimant testified that she submitted all of the required pay verifications for the month of January 2013. Claimant further stated that her case was transferred to Wayne County in April 2013, and at that time, she was referred to PATH for orientation. Claimant testified that she contacted the Department and left several messages informing them that she was unable to attend orientation at her scheduled date and time because she was working and could not take any time off of work. Claimant stated that she received the Notice of Noncompliance and contacted the Department prior to the April 17, 2013, triage meeting to have the triage rescheduled, as Claimant was working and unable to take the time off. Claimant also disputed that this was her third occurrence of noncompliance without good cause and did not agree with the Department's imposition of a lifetime sanction on her FIP case. Claimant stated that she was previously found to be noncompliant without good cause on only one prior occasion and that her FIP case closed for three months.


Additionally, the Department did not present any evidence in support of its testimony other than the hearing summary that was read into the record. The Department was unable to provide the dates for Claimant's alleged first and second occurrences of noncompliance without good cause; nor was the Department able to refute Claimant's testimony that she never had a second occurrence of noncompliance. The Department was also unable to refute Claimant's testimony that she contacted the Department prior to the PATH orientation and the triage meeting to inform the Department of her inability to take off work and attend. Further, because the Department failed to conduct a triage prior to Claimant's case closure to determine whether or not good cause existed for Claimant's noncompliance, the Department did not act in accordance with Department policy when it closed Claimant's FIP case for noncompliance and imposed a lifetime sanction effective May 1, 2013.

**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 Department acted policy when it closed Claimant's FIP case due to noncompliance without good cause and imposed a lifetime sanction. Accordingly, the Department's FIP decision is REVERSED.

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

1. Remove the lifetime sanction that was imposed on Claimant's FIP case;
2. Initiate reinstatement of Claimant's FIP case effective May 1, 2013, in accordance with Department policy; and
3. Begin issuing supplements to Claimant for any FIP benefits that she was eligible to receive but did not from May 1, 2013, ongoing.

  
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**Zainab Baydoun**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: May 28, 2013

Date Mailed: May 28, 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,

2013-43229/ZB

- 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:

