

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 2013-45285
Issue Nos.: 2000;1005;1038
Case No.: ██████████
Hearing Date: June 3, 2013
County: Wayne (76)

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 June 3, 2013, from Detroit, Michigan. Claimant and her Authorized Hearing Representative, ██████████ appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████ ██████████ Family Independence Specialist.

ISSUE

Did the Department act in accordance with Department policy when it closed Claimant's Family Independence Program (FIP) case and imposed a three month 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 Medical Assistance (MA) and FIP benefits.
2. On April 18, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on April 26, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 1)
3. On April 18, 2013, the Department also 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 three month sanction for noncooperation with employment-related activities. (Exhibit 2)

4. Claimant's FIP case closed effective May 1, 2013 and a three month sanction was imposed.
5. On May 8, 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).

MA

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Michigan Administrative Code R 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance.

Additionally, Claimant requested a hearing to dispute adverse actions taken by the Department with respect to her MA and FIP cases. At the hearing, the Department testified that Claimant had ongoing and active MA coverage. Claimant testified that she understood and accepted the actions taken by the Department concerning her MA case and that she did not wish to proceed with a hearing concerning her MA case. The Department agreed to the dismissal of Claimant's hearing request with regard to her MA case. Pursuant to Mich Admin Code R 400.906(1), Claimant's hearing request with regard to her MA case is hereby DISMISSED.

FIP

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 (“WEI”) 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. At the hearing, the Department testified that Claimant did not complete her required hours of community service and was placed in noncooperation with PATH. On April 18, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on April 26, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 1). Also on April 18, 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 three month FIP sanction for a first occurrence of noncooperation with employment-related activities. BEM 233A. p.8-9;BAM 220 (November 2012), p. 9.

At the hearing, the Department testified that a triage was not conducted on April 26, 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.

Because the Department failed to conduct a triage prior to Claimant’s case closure to determine whether or not good cause existed for Claimant not attending PATH, the Department did not act in accordance with Department policy when it closed Claimant’s FIP case for noncompliance and imposed a three month sanction effective May 1, 2013.

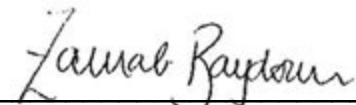
DECISION AND ORDER

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 Claimant's hearing request with regards to MA is DISMISSED.

The Administrative Law Judge further 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 three month 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 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 consistent with this Hearing Decision; 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.



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

Date Signed: June 10, 2013

Date Mailed: June 10, 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:

2013-45285/ZB

- 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

ZB/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]