

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2013-4632
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: January 7, 2013
Wayne County DHS (41)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was held in Detroit, Michigan on Monday, January 7, 2013. The Claimant appeared and testified. The Claimant was represented by [REDACTED] Organization. Participating on behalf of the Department of Human Services ("Department") was [REDACTED].

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits effective October 1, 2012?

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 a FIP recipient.
2. On September 7, 2012, the Department sent a Notice of Non-compliance to the Claimant instructing her to appear for triage on September 13, 2012. (Exhibit 2)
3. On September 13th, a triage was held resulting in a no good cause determination. (Exhibit 3)
4. During the period of the alleged non-compliance (August 2012) the Claimant's son required emergency room treatment. (Exhibit 4)

5. During the period at issue, the Department improperly terminated the Claimant's Medical Assistance ("MA") benefits. (Exhibit 1)
6. During the period at issue, the Claimant filed a harassment complaint with the housing commission. (Exhibit 5)
7. During the period at issue, eviction proceedings were initiated resulting in a Landlord-Tenant judgment against the Claimant which was subsequently paid with the assistance of the State Emergency Relief funds. (Exhibits 6, 7)
8. The Department sent a Notice of Case Action to the Claimant informing her that her FIP benefits would terminate effective October 1, 2012 due to the imposition of the 3-month JET sanction.
9. On October 11, 2012, the Department received the Claimant's written request for hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("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, Rules 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children ("ADC") program effective October 1, 1996.

The Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A (December 2011), p. 1. All Work Eligible Individuals ("WEI") are required to participate in the development of a Family Self-Sufficiency Plan ("FSSP") unless good cause exists. BEM 233A, p. 1; BEM 228 (December 2011), p. 3. As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. BEM 233A (December 2011), p. 1. The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program ("JET") or other employment service provider. BEM 233A, pp. 4, 5. 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.

An individual who identifies barriers may be temporarily deferred from JET participation. BEM 229 (December 2011), p. 1. JET participants will not be terminated from a JET

program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 7, 8. 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; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A, pp. 8, 9.

As a preliminary matter, the Notice of Non-compliance was defective in that it did not provide the Claimant notice of the date the Claimant was determined to be non-compliant. At hearing, and as was discussed during triage, the non-compliance occurred during the last three weeks of August 2012.

In this case, the Department imposed a 3 month sanction after finding good cause did not exist for the Claimant's JET non-compliance. During the triage, the Claimant presented evidence that on the first Monday she was to report (August 9th) after having completed the orientation, she had to bring her son to the emergency room to remove a foreign object from his ear. The Claimant also presented evidence that she was dealing with harassment from neighbors as well as possible homeless (Landlord-Tenant Judgment). In addition, the Claimant who is an insulin dependent diabetic, was unable to get her medication because the Department had improperly terminated her MA benefits. The Department subsequently remedied its error (after approximately 3 months). The Claimant testified credibly that the evidence presented at triage was not seriously considered. Ultimately, in light of the multiple issues the Claimant was dealing with in August 2012, it is found that the Claimant established good cause for JET non-compliance. Accordingly, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department's actions are not upheld.

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

1. The Department's FIP determination is REVERSED.
2. The 3-month FIP sanction is not imposed.
3. The Department shall initiate reinstatement of the Claimant's FIP benefits effective October 1, 2012 in accordance with department policy.

4. The Department shall supplement for lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 14, 2013

Date Mailed: January 15, 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

CMM/tm

cc:

