

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2013 38897
Issue No. 1038
Case No. [REDACTED]
Hearing Date: January 10, 2013
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 telephone hearing was held on January 10, 2013 from Detroit, Michigan. The Claimant appeared and testified. [REDACTED], Case Manager, and [REDACTED] Assistance Payments Supervisor, appeared on behalf of the Department.

ISSUE

Whether the Department correctly sanctioned and closed the Claimant's cash assistance (FIP) for noncompliance with work-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. The Claimant was assigned to attend the work first program and did not attend August 13, 2012.
2. The Claimant attended the orientation but did not remain at the orientation.
3. The Department held a triage by telephone on September 6, 2012 and at the triage the Claimant stated that she had to take her medications and that the work first program would not allow her to take her medications during the program.
4. The Claimant did not return to work first after orientation.

5. The Department requested that the claimant provide additional medical information in support of her non-attendance but did not send the Claimant a Medical Needs form.
6. The Department sent a notice of noncompliance to the Claimant on August 25, 2012. The Notice scheduled a triage for September 6, 2012. The Notice indicated the noncompliance due to failure to participate in the Jet program noting no initial contact with MWA (Michigan Works Agency). Exhibit D
7. The Department sanctioned and closed the Claimant's FIP case effective October 1, 2012 for 3 months when it found no good cause because Claimant had not provided any additional medical information.
8. No individual from the work first program or from the department who attended the triage attended the hearing.
9. The Claimant requested a hearing on October 29, 2012 protesting the closure of her FIP cash assistance and the imposition of a 3 month sanction.

CONCLUSIONS OF LAW

The Family Independence Program ("FIP") was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services ("DHS" or "Department"), formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq.* and Michigan Administrative Code Rules 400.3101-3131. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A All Work Eligible Individuals ("WEI") as a condition of eligibility must engage in employment and/or self-sufficiency related activities. BEM 233A 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 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 Failure to comply without good cause results in FIP closure. BEM 233A The second occurrence of non-compliance results in a 6 month FIP closure. BEM 233A The third occurrence results in a lifetime disqualification from receiving FIP benefits.

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 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 In addition, a triage must be held within the negative action period. BEM 233A A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A. However, a failure to participate can be overcome if the client has good cause. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the claimant. BEM 233A. The penalty for noncompliance is FIP closure. However, a failure to participate can be overcome if the client has good cause. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the claimant. BEM 233A. The penalty for noncompliance is FIP closure.

In this case, the Claimant was assigned to attend work first and after orientation did attend for part of the time and then left. The Claimant credibly testified that at the time of the orientation she was taking chemotherapy drugs and that the work first program personnel advised her that she could not take her medications and attend the program.

Subsequently the Department had a phone triage with the Claimant and asked the Claimant to provide medical information to support her medical condition regarding chemotherapy. The Department did not send the Claimant a medical needs form requesting that additional information be provided. Subsequently, the Department closed the Claimant's case because no additional medical information was provided by Claimant.

As I find the claimant's testimony regarding the work first program advising her that she could not take her medications while attending the program credible, I find that this reason for leaving established good cause for her non-attendance. No one from the work first program was in attendance at the hearing to dispute the Claimant's assertion and thus the program prevented her from continuing to attend which was a situation not within her control.

Additionally, I find that the Claimant also should have been sent a medical needs form or other request for medical verification of her medical condition and the effects of her chemotherapy. BEM 230 A requires that for short term incapacity (less than 90 days) verification must be obtained by obtaining a medical needs form. Additionally for longer incapacity or when an MRT decision has already been issued and the Claimant is claiming a new medical condition, new verifications are to be obtained. Department of Human Services Bridges Eligibility Manual (BEM) 230 A pp. 11 and pp.13 (1/2013)

The Department should have also considered BEM 233 A, p 8 which requires a planning triage when an individual has been reviewed by MRT and found to be work ready with limitations but is noncompliant with work-related activities.

Therefore, it is determined based upon the evidence presented at the hearing and the testimony of the parties that the Department did not comply with department policy regarding the requirements obtaining additional medical verification with regard to the Claimant's medical conditions and did not provide a medical needs form and that the Claimant was prohibited from attending the work first program due to the program sending her away because of her need to take medications while in attendance.

Based on the above Findings of Fact and Conclusions of Law and for the reasons stated on the record at the hearing, the testimony of witnesses and the documentary evidence received, the Department has not demonstrated that it correctly followed and applied Department policy in closing and sanctioning the Claimant's FIP case for non-compliance without good cause and therefore also improperly imposed a 3 month sanction. BEM 230 A and BEM 233A

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 properly when it closed the Claimant's FIP case and imposed a 3 month sanction.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is REVERSED for the reasons stated on the record and in this Decision.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record and in this Decision finds that the Department

did act properly when . did not act properly when it closed Claimant's FIP case and imposed a 3 month sanction.


Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record and as set forth in this Decision.

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 initiate reinstatement of the Claimant's FIP case retroactive to the date of closure October 1, 2012.

2013 8897 /LMF

2. The Department shall issue a supplement to the Claimant for any FIP benefits she was otherwise entitled to receive as a result of the improper closure based upon noncompliance with work first participation without good cause.
3. The Department shall remove the 3 month sanction it imposed for non-participation with work first from the Claimant's case record and the Department's records.
4. The Department shall provide the Claimant a medical needs form which is to be completed and processed to determine if the Claimant must attend the work first program based upon her current medical condition.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 16, 2013

Date Mailed: January 16, 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.

2013 8897 /LMF

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative Hearings
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/cl

cc:

