

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

IN THE MATTER OF:

[REDACTED]

Reg.No. 2013-9755  
Issue No. 1038  
Case No. [REDACTED]  
Hearing Date: January 14, 2013  
Wayne County DHS (19)

**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 14, 2013. The Claimant appeared and testified. [REDACTED], FIM, and [REDACTED], FIS, appeared on behalf of the Department.

**ISSUE**

Whether the Department correctly sanctioned and closed the Claimant's cash assistance (FIP) for Non-Compliance 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 an ongoing recipient of FIP benefits.
2. The Claimant was assigned to attend Work First on 7/9/12.
3. The Claimant appeared for orientation but did not stay to due to lack of day care.
4. The Department sent the Claimant a Notice of Non-Compliance on 8/18/12 indicating that the Claimant did not meet her participation requirements on 7/18/12.
5. The Notice of Non-Compliance scheduled a triage for 8/28/12.
6. The Claimant had been assigned to attend MRS by the Work First program.

7. The Claimant did attend the triage. At the triage the Claimant provided the Department had a letter from Michigan Rehabilitation Services indicating that the Claimant was enrolled at MRS and attending the program for an Individual Employment Plan. Exhibit F.
8. The Department's notes of the triage, triage outcome sheet, indicates action sanction "customer has been at [REDACTED] since 4/20/12." Exhibit E.
9. On 9/1/12 the Department closed the Claimant's FIP case and imposed a 3 month sanction for Non-Compliance with Work First participation without good cause. Exhibit J
10. No Department representative or Work First representative that attended the triage attended the hearing.
11. The Claimant requested a hearing on 10/16/12 protesting the closure of her FIP cash assistance case and reduction of her food assistance benefits.

### **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 first and second occurrences of Work First results in a 3 month FIP closure. BEM 233A The third occurrence results in a 12 month sanction.

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 Work First, DHS-2444, which must include the date(s) of the Work First; 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. BEM 233a provides direction to the Department as follows when determining good cause:

Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or the work participation program.

In this case, the Claimant credibly testified that she reported to the orientation and advised the Work First program that she was attending Michigan Rehabilitation Services. At the triage the Claimant presented a letter verifying that she was attending [REDACTED] and was completing a pre-employment workshop. At the triage the Department did not provide the basis for its finding of no good cause. The form merely notes that Claimant was attending [REDACTED]. No medical needs form was given to the Claimant. The Claimant also credibly testified that the Work First program had assigned her to MRS as part of her participation requirements.

The Claimant credibly testified that the Work First personnel at orientation advised the Claimant to gather her MRS information and information regarding the work study program she was participating in and provide it to the Department. The Claimant did provide the information to the Department and provided it to two district offices to her caseworker(s) as her case had transferred. Because the Claimant's testimony was credible and no second notice of appointment was sent out, it does not appear that the Claimant was in Non-Compliance.

The Claimant provided the same information regarding MRS and her work study program to the Work First program at the triage. No decision was made at the triage as to whether the Claimant had demonstrated good cause and the triage outcome form also confirms that no decision was made. As no one from the triage meeting attended the hearing, the Department could not demonstrate the basis for finding no good cause and thus no basis for closing and sanctioning the Claimant's case was established. The Department did not meet its burden of proof to demonstrate whether it considered

whether the Claimant was in compliance, whether she should be deferred, or whether the activities Claimant was participating in qualified as participation activities. Therefore it is determined that the Department did not meet its burden of proof that it properly closed the Claimant's FIP case for failure to participate in Work First activities in accordance with Department policy. On the basis of this testimony, it is found that there was no basis for the sanction that was imposed.

No one from the Work First program or Department who attended the triage attended the hearing, and thus Claimant's credible testimony was unrebutted.

After reviewing the documents submitted at the hearing and the testimony of the parties provided under oath, it is determined that the Department did not meet its burden of proof to demonstrate that it correctly determined that the Claimant failed in her Work First participation requirements or failed to demonstrate good cause basis for the finding of no good cause was established.

Based on the above Findings of Fact and Conclusions of Law and the testimony of witnesses and the documentary evidence admitted, 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 imposing a 3 month sanction. BEM 233A.


### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department incorrectly closed the Claimant's cash assistance FIP case, and improperly imposed a 6 month sanction closing the Claimant's case for noncompliance with work-related activities for non-participation with the Work First program. Accordingly, the Department's determination is REVERSED.

Accordingly it is ordered:

1. The Department shall initiate reinstatement of the Claimant's FIP case retroactive to the date of closure (9/1/12) and shall reinstate the Claimant to her FAP group if she was removed and her FAP benefits were reduced.
2. The Department shall supplement the Claimant for any FIP benefits and FAP benefits if any, she was otherwise entitled to receive in accordance with Department policy.

3. The Department shall remove from its records and the Claimant's case file the 3 month sanction it imposed on the Claimant for Non-Compliance with work-related activities.

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

Date Signed: January 23, 2013

Date Mailed: January 23, 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

2013-9755/LMF

LMF/cl

cc:

