

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2013-9865
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: January 17, 2013
Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

AMENDED HEARING DECISION

Due to a clerical error regarding the JET sanction, this decision is Amended.

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 conducted from Detroit, Michigan on Thursday, January 17, 2013. The Claimant appeared and testified. 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 December 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. The Claimant was medically deferred from JET participation from July 26th through August 24, 2012.
3. On August 9th and September 25, 2012, the Department sent medical verifications to the Claimant to be completed in order to determine whether the medical deferral would continue.

4. The verifications were not returned.
5. On October 17, 2012, a Notice of Non-compliance was sent to the Claimant instructing her to participate in an October 23, 2012 triage. (Exhibit 1).
6. On this same date, a Notice of Case Action was sent to the Claimant informing her that her FIP benefits would terminate effective November 1, 2012 based on the JET non-compliance.
7. The Claimant failed to call/appear for the October 23rd triage resulting in a no good cause determination.
8. On October 29, 2012, the Department received the Claimant's written request for hearing. (Exhibit 2)
9. As a result of the timely hearing request, the Department deleted the proposed negative action pending the outcome of this 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 (May 2012), 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. Lack of transportation and/or domestic violence constitute good cause. BEM 233A, pp. 4, 5.

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. 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 this case, the Claimant was temporarily medically deferred from JET participation. The previously submitted Medical Needs form (Exhibit 5) is contradictory in that on one section it provides that the medical treatment would be necessary for 5 months; however, in another section, the Claimant was found able to return to work on or about September 24, 2012. In determining whether the deferral should continue, the Department sent medical verifications to the Claimant in August and September. These verifications were not returned resulting in the Claimant being referred to the JET program. The Claimant did not participate with the JET program as required and a triage was scheduled to discuss non-compliance. On October 23rd, the date of triage, the Claimant was a no call/no show. At this point, there was no communication from the Claimant. Due to the lack of any information and/or communication from the Claimant, the Department found good cause was not established for the JET non-compliance resulting in FIP termination and the imposition of the sanction. Ultimately, the Department established it acted in accordance with Department policy when it terminated the Claimant's FIP benefits based on JET non-compliance without good cause. Accordingly, the Department's FIP actions are AFFIRMED.

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 established it acted in accordance with Department policy when it terminated the Claimant's FIP benefits based on non-compliance with work-related activities without good cause.

Accordingly, it is ORDERED:

1. The Department's FIP determination is AFFIRMED.
2. The 6-month FIP sanction is imposed for non-compliance without good cause in required work-related activities.

Colleen M. Mamelka

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

Date Signed: January 28, 2013

Date Mailed: January 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,
 - 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:

