

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-51769
Issue Nos.: 1005,1038
Case No.: ██████████
Hearing Date: July 3, 2013
County: Wayne (31)

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 conducted from Detroit, Michigan on July 3, 2013. Claimant appeared and testified. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case due to a failure to participate in employment and/or self-sufficiency-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. Claimant was an ongoing recipient of FIP benefits.
2. On May 3, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on May 15, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 2)
3. On May 3, 2013, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits effective

June 1, 2013 and impose a six month sanction for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 3)

4. On May 30, 2013, the Department received the Claimant's request for a hearing disputing the closure of her FIP case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (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, 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, among other things. 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.

Good cause includes any of the following: the client is employed for 40 hours/week, the client is physically or mentally unfit for the job, the client has a debilitating illness or injury or a spouse or child's illness or injury requires in-home care by the client, the Department, employment service provider, contractor, agency or employer failed to make a reasonable accommodation for the client's disability, no child care, no transportation, the employment involves illegal activities, the client experiences discrimination, an unplanned event or factor likely preventing or interfering with employment, long commute or eligibility for an extended FIP period. BEM 233A, p. 4. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p.1.

In processing a FIP closure, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance; the reason the client was determined to be noncompliant; and the penalty duration. BEM 233A. p.8-9. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the

reason(s) for the action. BAM 220 (November 2012), p. 9. 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 Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 7.

Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 8. 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.

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 work participation program for a certain number of hours per week. The Department testified that Claimant attended PATH orientation on February 19, 2013 but that her attendance for the following weeks was poor. As a result, on May 3, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on May 15, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 2). On May 3, 2013, the Department also sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits effective June 1, 2013 and impose a six month sanction for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 3); BEM 233A, pp. 7-9; BAM 220, p. 9.

A triage meeting was conducted on May 15, 2013, which Claimant did not attend. At the triage, the Department concluded that Claimant did not have good cause for her not participating in PATH for the required number of hours and closed Claimant's FIP case effective June 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 3); BEM 233A, pp.6, 8.

At the hearing, Claimant testified she was previously living with her father and that he kicked her out of the home a few months ago. Claimant stated that she does not have stable housing and that she moves from place to place and does not have a phone. Claimant stated that due to her homelessness, she was forced to drop out of school and unable to participate with PATH as required. Claimant testified that she was not aware of the Notice of Noncompliance informing her of the triage date until the day before the triage meeting was scheduled because her father did not give Claimant her mail prior to that. Claimant stated that she called the Department numerous times and left messages for her case worker, however, she was not able to reach anyone. The Department was unable to refute Claimant's testimony, as the Department representative participating in the hearing was not Claimant's case worker.

According to BEM 233A, homelessness can be considered an unplanned event or factor likely preventing or interfering with employment and therefore, can be considered

good cause for noncompliance with employment and/or self-sufficiency related activities. BEM 233A, pp. 3, 4. Because Claimant credibly testified that she does not have stable housing and that she has been homeless for months, the Department did not act in accordance with Department policy when it closed Claimant's FIP case based on noncompliance with employment and/or self-sufficiency-related required activities without good cause and imposed a six month sanction. Accordingly, the Department's actions are REVERSED.

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 in accordance with Department policy when it terminated Claimant's FIP benefits due to noncompliance without good cause and imposed a six month sanction. Accordingly, the Department's actions are 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 June 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 entitled to receive but did not from June 1, 2013.



Zainab Baydoun

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

Date Signed: July 10, 2013

Date Mailed: July 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:

- 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

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[REDACTED]
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