

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

IN THE MATTER OF:

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Reg.No. 2013 53965
Issue No. 1038
Case No. ██████████
Hearing Date: July 18, 2013
Wayne (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 July 18, 2013. The Claimant appeared and testified. ██████████ Case Manager, and ██████████, Path Coordinator, 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 cash assistance benefits.
2. At the hearing the Claimant withdrew her request for hearing regarding Medical Assistance and Food Assistance as those issues had been resolved.
3. The Claimant became employed while receiving FIP benefits and then was terminated by her employer for missing work.
4. The Department sent a Notice of Non Compliance dated June 7, 2013 to the Claimant which scheduled a triage on June 13, 2013.
5. At the phone triage the Claimant conceded that she was terminated for missing work and did not indicate that she had any child care problems.

6. At the triage the Department determined there was no good cause for termination of employment and closed the Claimant's FIP case and imposed a first sanction for being fired from a job due to missing work.
7. The Claimant did not apply for child day care until after case closure.
8. On June 7, 2013 the Department issued a Notice of Case Action closing the Claimant's FIP case for non-compliance with work rules without good cause and imposed a 3 month sanction effective July 1, 2013.
9. The Claimant requested a hearing on June 17, 2013 protesting the closure of her FIP cash assistance case and imposition of a 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 first and second occurrences of non-compliance result in a 3 and 6 month FIP closure respectively. BEM 233A The third occurrence results in a Lifetime sanction.

PATH participants will not be terminated from the PATH 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

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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:

Clients must comply with triage requirement and provide good cause verification within the negative action period. 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. BEM 233A, page 8.

In this case, the Claimant was terminated from her employment for missing work. The Claimant testified at the hearing that she missed her work because she did not have child care. The Claimant did not assert lack of child care as the reason she missed work and in fact never applied for Child Development and Care benefits until after the case was closed. In this case lack of child care was not good cause as the Claimant did not apply for Child Development and Care benefits until after her case was closed and she had been terminated from her job. BEM 233 A pp., 4 (1/1/13)

The Department closed the Claimant's case after a triage finding the Claimant in non-compliance without good cause. The Claimant essentially did not show up for work and was terminated. Claimant was advised of the rules at application and did not read the rules stating firing for missing work is a violation of the work rules provided to Claimant when she applied for benefits. Overall it is determined that the Claimant was fired for missing work and did not make sufficient efforts to seek assistance for child care until after she lost her job.

The evidence presented demonstrated that the Department held a triage and that at the triage the Department determined that the Claimant had been terminated from her job for missing work in violation of the work rules and thus correctly determined that good cause was not established. The Department correctly found no good cause and instituted closure of the Claimant's FIP case. BEM 233a PP. 3 (1/1/13)

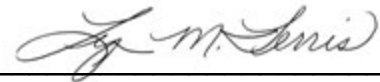
Based of the above Findings of Fact and Conclusions of Law and the testimony of witnesses and the documentary evidence received, the Department has demonstrated that it correctly followed and applied Department policy in closing and sanctioning the Claimant's FIP case for non-compliance without good 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 correctly closed the Claimant's cash assistance FIP case, and correctly imposed a 3 month sanction closing the Claimant's case for non-compliance with work-related activities for non-participation with the Work First program.

In addition the Claimant's hearing requests regarding Food Assistance and Medical Assistance were resolved before the hearing and therefore no issue remains to be decided and Claimant's hearing request regarding her FAP benefits and Medical Assistance are DISMISSED.

Further, the Department's determination regarding closure of the Claimant's FIP cash assistance case and the imposition of a 3 month sanction is AFFIRMED.



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

Date Signed: July 26, 2013

Date Mailed: July 26, 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:

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- 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

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cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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