

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201358442
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: August 15, 2013
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 held on August 15, 2013. Claimant and his spouse Nada, appeared and testified. The Department was represented by [REDACTED] and [REDACTED].

ISSUE

Did the Department properly sanction Claimant's Family Independence Program (FIP) for failure to participate in employment and/or self-sufficiency related activities?

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 Family Independence Program (FIP) benefits.
- (2) On May 17, 2013, Claimant was sent an Appointment Notice (DHS-170). The notice scheduled a meeting on May 30, 2013, to "sign and date the contract to complete daily activity logs and return to DHS weekly." The notice only had Claimant's name on it.
- (3) On May 30, 2013, Claimant's spouse, [REDACTED], did not go to the scheduled meeting. A Notice of Non-Compliance (DHS-2444) was sent to Claimant stating [REDACTED] was non-compliant of May 30, 2013 because she failed to complete FSSP. - The notice scheduled an appointment for June 6, 2013. Claimant was also sent

Notice of Case Action (DHS-1605) stating that the Family Independence Program (FIP) would be sanctioned.

(4) On June 6, 2013, [REDACTED] did not attend the scheduled meeting. The Department determined there was no good cause for [REDACTED] failure to participate in employment and/or self-sufficiency related activities.

(5) On July 10, 2013, Claimant submitted a request for hearing.

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, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

At this hearing [REDACTED] explained that [REDACTED] was deferred from participating in PATH because she cares for a disabled family member and the scheduled meeting was for [REDACTED] to sign the FSSP and to make sure she understands that she has to keep a log of the activities she does to care for the disabled family member. [REDACTED] asserted that [REDACTED] failure to complete the FSSP is noncompliance and the FIP case should be sanctioned. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

There is more than one problem with this proposed action. First is the May 17, 2013 Appointment Notice (DHS-170). It does not provide any notice that [REDACTED] was required to attend the appointment scheduled for May 30, 2013. Department of Human Services Bridges Eligibility Manual (BEM) 233A (2013) page 2 does include failure to develop an FSSP as noncompliance. However, there is a note on page 2 which states "a FSSP completion appointment with the client must have been scheduled and the client failed to attend before considering a client noncompliant for FSSP completion." The evidence in this record does not show that [REDACTED] failed to complete an FSSP because the appointment notice sent out does not provide notice that the meeting is for [REDACTED].

The second and more important problem with this proposed action is that it does not comply with Department policy. BEM 233A page two contains the following:

Exception: Do not apply the three month, six month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens. Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

Even if the evidence showed [REDACTED] failed to complete an FSSP the FIP case cannot be sanctioned. Failure to complete an FSSP results in FIP closure, not FIP sanction.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not properly sanction Claimant's Family Independence Program (FIP) for failure to participate in employment and/or self-sufficiency related activities.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **REVERSED**.

It is further ORDERED that Claimant's Family Independence Program (FIP) be reinstated and any benefits the group was otherwise eligible for but did not receive due to this incorrect action will be supplemented.

/s/

Gary F. Heisler
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 08/20/2013

Date Mailed: 08/21/2013

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 receipt 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.

201358442/GFH

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

GFH/sw

cc:

