

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2013-12221
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: January 17, 2013
Oakland County DHS (04)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 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 October 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. On August 1, 2012, the Department sent a Work Participation Appointment Notice scheduled for August 14, 2012 to a Pontiac address. (Exhibit 1)
3. The Claimant did not appear for the appointment.
4. On August 25, 2012, the Department sent a Notice of Non-compliance to the Claimant instructing her to appear for triage on August 31, 2012. (Exhibit 2)

5. On this same date, the Department sent a Notice of Case Action to the Claimant informing her that her FIP benefits would terminate effective October 1, 2012. (Exhibit 3)
6. On August 29, 2012, the Claimant's treating physician submitted a letter stating that the Claimant received treatment that day and recommended that she not work until after she is re-evaluated in 30 days. (Claimant Exhibit A)
7. The Claimant did not participate in the triage resulting in a no good cause determination for JET non-compliance. (Exhibit 6)
8. On October 1, 2012, the Claimant's FIP benefits terminated. (Exhibit 4)
9. On November 13, 2012, the Department received the Claimant's written request for hearing. (Exhibit 4)

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, homelessness, lack of child care, 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 (former victim of domestic violence) delivered her child via Cesarean on May 9, 2012. The Claimant contacted the Department and was instructed to submit a physician statement confirming she was medically unable to work. During this same time period, the Claimant's abuser located the Claimant. In response, the Claimant fled from her [REDACTED] address to [REDACTED]. The Claimant asserts that she was "illegally evicted" on August 6^h from the [REDACTED] address but that she continued to communicate with the Department regarding her situation. The Claimant testified credibly that she never received the JET Appointment Notice, Notice of Non-compliance, and Notice of Case Action because it was sent to the F [REDACTED] address from which she fled.

Prior to the triage date, the Department received a medical statement dated August 29, 2012, from the Claimant's treating physician stating that the Claimant was unable to work until further evaluation in 30 days. Based on the submitted record, it is not clear whether the Department considered this document during the triage when it found good cause was not established. Ultimately, in light of the numerous issues the Claimant was dealing with in August 2012 (newborn child, lack of transportation, flight from prior abuser, and homelessness) and in consideration of the timely submitted physician statement, it is found that good cause was established for the failure to participate with the JET program. Accordingly, the imposition of the 3 month sanction is not upheld.

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's actions are not upheld.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department's imposition of the JET sanction is not upheld.

2. The Department shall initiate reinstatement of the Claimant's FIP benefits from the date of closure, October 1, 2012, and supplement for lost benefits that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director

Date Signed: January 24, 2013

Date Mailed: January 24, 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.

2013-12221/CMM

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:

A large black rectangular redaction box covers the names and email addresses of the recipients listed under the 'cc:' field.