

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

IN THE MATTER OF:



Reg. No.: 201314201
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: January 30, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 January 30, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment-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 and was required to participate in employment-related activities.
2. On November 1, 2012, the Department sent Claimant a Work Participation Program Appointment Notice requiring her to attend the work participation program on November 13, 2012.
3. Claimant did not attend the November 13, 2012, work participation program.

4. On November 20, 2012, the Department sent Claimant a Notice of Noncompliance scheduling a triage on November 27, 2012.
5. Claimant participated in the triage.
6. The Department held the triage and found that Claimant had failed to comply with employment-related activities without good cause.
7. On November 20, 2012, the Department sent Claimant a Notice of Case Action increasing her FIP benefits for the month of December 2012 and closing her FIP case, effective January 1, 2012, based on a failure to participate in employment-related activities without good cause.
8. The Department imposed a first second third sanction for Claimant's failure to comply with employment-related obligations.
9. On November 23, 2012, Claimant filed a request for a hearing disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), and the Department of Human Services 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 1999 AC, R 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

A client's failure to attend or participate in a Jobs, Education and Training (JET) program or other employment service provider without good cause constitutes a noncompliance with employment or self-sufficiency related activities. BEM 233A (November 1, 2012), pp 1-2. JET participants will not be terminated from a JET program, and their FIP case closed, without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p 7.

In this case, Claimant acknowledges that she did not attend the November 13, 2012 JET orientation. She attended the triage and explained that she believed she did not have to attend the JET program because she was a student in a vocational training program. The Department confirmed that Claimant attended the triage and provided a copy of her school schedule at the hearing. The Department concluded that Claimant's

school attendance did not provide good cause for her nonattendance at the JET orientation. The Department acted in accordance with Department policy when finding that school attendance did not defer a client's participation from the JET program and that Claimant did not have good cause for noncompliance on this basis. See BEM 230A (November 1, 2012), p 4; BEM 228 (November 1, 2012), pp 12, 17.

However, evidence at the hearing established that Claimant was scheduled to attend the JET orientation on a Tuesday and that her school schedule showed that she was in class all day on Tuesday. Claimant credibly testified that she tried to contact her worker numerous times prior to her scheduled JET appointment to let her know about her school attendance but the voicemail was always full. The Appointment Notice advises clients to call their workers before the appointment date if they are unable to attend the appointment, and to reschedule the appointment. See also BEM 229, p 2. Because Claimant had called her worker prior to the scheduled appointment date intending to inform her of her school attendance and that she was attending class the day of the orientation, Claimant's call had the effect of requesting that her orientation be rescheduled. Although the Department contended that Claimant's full-time class schedule prevented her attendance at any JET orientation, Claimant should have been afforded the opportunity to attempt to reschedule. Under the facts in this case, the Department did not act in accordance with Department policy when it prevented Claimant from attempting to reschedule the JET orientation as provided in the Work Participation Program Appointment Notice.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly closed Claimant's FIP case. improperly closed Claimant's FIP case.

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 act properly. did not act properly.

Accordingly, the Department's FIP decision is AFFIRMED REVERSED for the reasons stated above and on the record.

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

1. Reinstate Claimant's FIP case as of January 1, 2013;
2. Remove the FIP noncompliance sanction imposed on or about January 1, 2013, from Claimant's record; and

3. Issue supplements for FIP benefits Claimant was eligible to receive but did not from January 1, 2013, ongoing.



Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 5, 2013

Date Mailed: February 5, 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

ACE/hw

cc:

