

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

IN THE MATTER OF:



Reg. No.: 201318286
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: May 6, 2013
County: Wayne (31)

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 May 6, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's son. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for failure to comply with 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.
2. On November 1, 2012, the Department closed Claimant's FIP case due to failure to comply with employment-related activities without good cause and notified Claimant that her FIP case would remain closed through January 1, 2013.
3. On October 10, 2012, the Department sent Claimant notice of its actions.

4. On December 6, 2012, Claimant filed a hearing request, protesting the closure of her FIP case.

CONCLUSIONS OF LAW

Department policies are contained in the 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 1999 AC, R 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Additionally, the Department testified that on October 10, 2012, it sent Claimant a Notice of Case Action advising her that, effective November 1, 2012, her FIP case would close and be sanctioned for a minimum three-month period based on her noncompliance with employment-related activities without good cause. Although Claimant's December 6, 2012 Hearing Request clearly indicated that she had requested a hearing concerning her FIP case, she also wrote in that she was requesting a hearing concerning her MA and FAP cases but then marked the reference to those cases off. Claimant testified at the hearing that her MA and FAP had been restored. The Department further testified that the October 10, 2012 Notice of Case Action reducing Claimant's FIP benefits had not reduced Claimant's FAP benefits or affected her MA coverage. Therefore, the hearing proceeded with respect to the closure of Claimant's FIP case.

In order to increase their employability and obtain employment, work eligible individuals (WEIs) seeking FIP are required to participate in the a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (December 1, 2011), p 1; BEM 233A (May 1, 2012), p 1. Failing or refusing to comply with assigned activities or participate in employment and/or self-sufficiency-related activities without good cause constitutes a noncompliance with employment-required activities justifying closure of a client's FIP case. BEM 233A, pp 1-2. However, the Department must first schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p 7.

In this case, the Department testified that it sent Claimant Work Participation Program Appointment Notices on various dates scheduling her to attend the work participation program orientation. The Department testified that when Claimant failed to attend on the scheduled dates, it sent her a October 10, 2012, Notice of Noncompliance scheduling a triage on October 17, 2012. Claimant did not attend the triage, and the Department concluded that she had no good cause for her noncompliance.

At the hearing, Claimant denied receiving any of the Work Participation Program Appointment Notices or the Notice of Noncompliance. The Department did not provide a copy of the notices for admission into evidence to establish that the notices were properly addressed to Claimant. Therefore, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP case and sanctioned the case with a three-month closure.

Furthermore, evidence presented at the hearing showed that Claimant might be deferred from participation in the work participation program. The Department testified that although its system indicated that Claimant was a mandatory work participation program participant, it also indicated that she had a deferral reason of caring for a disabled child. Parents who provide care for a child with disabilities living in the home are not work eligible individuals and are not referred to the work participation program if they provide verification to establish the deferral. BEM 230A, pp 15, 20. Both parties agreed that Claimant had a disabled child in the home. Claimant testified that she was needed to care for her child in the home. Because the Department did not satisfy its burden of showing that Claimant was no longer eligible for this deferral, it did not act in accordance with Department policy when it referred Claimant to the work participation program.

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 closed Claimant's FIP case and applied a three-month sanction.

Accordingly, the Department's FIP decision is REVERSED.

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 November 1, 2012;
2. Remove the FIP sanction entered on, or about November 1, 2012, from Claimant's record; and
3. Begin issuing supplements to Claimant for any FIP benefits she was eligible to receive but did not from November 1, 2012, ongoing.



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

Date Signed: 5/14/2013

Date Mailed: 5/14/2013

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:

