

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

IN THE MATTER OF:



Reg. No.: 2013-4960
2013-19066/RECON
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: December 5, 2012
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

DECISION AND ORDER OF RECONSIDERATION

This matter is before the undersigned Administrative Law Judge pursuant to Department's timely Request for Rehearing/Reconsideration of the Hearing Decision generated by the assigned Administrative Law Judge (ALJ) at the conclusion of the hearing conducted on December 5, 2012, in the above-captioned matter.

The Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 400.919, *et seq.*, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program that is the basis for the claimant's benefits application, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

This matter having been reviewed, an Order Granting Reconsideration was issued on July 15, 2013.

ISSUE

Whether the Administrative Law Judge ("ALJ") erred in reversing the Department's determination which terminated the Claimant's cash assistance ("FIP") based on non-compliance with the Work First/Jobs, Education, and Training ("WF/JET") program?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was a FIP recipient and a mandatory WF/JET participant.
2. The Claimant, as part of her required participation in the WF/JET program, agreed to attend all required assignments and appointment.
3. The Claimant did not have any WF/JET approved reduced participation requirements.
4. On September 14, 2012, the Department mailed the Claimant a Notice of Noncompliance instructing her to appear for triage on September 20, 2012 at 1:30p.m.
5. On this same date, the Department mailed a Notice of Case Action to the Claimant informing her that her FIP benefits would close effective October 1, 2012 based on the failure "to participate in employment and/or self-sufficiency-related activities or you quit a job, were fired, or reduced your hours of employment **without good cause.**" (emphasis added)
6. On October 11, 2012, the Department received the Claimant's timely written request for hearing protesting the closure of FIP benefits.
7. On December 5, 2012, a hearing was conducted resulting in a Hearing Decision that reversed the Department's actions ordering the Department to remove the sanction from claimant's FIP and FAP cases, reinstate claimant's FIP case and restoration of claimant's FAP case effective October 1, 2012, and is sue FIP and FAP supplements in accordance with departmental policy.
8. The Hearing Decision was mailed on December 13, 2012.
9. On December 26, 2012, a timely Request for Reconsideration was received from the Department.

CONCLUSIONS OF LAW

In the instant case, the Department's Request for Rehearing/Reconsideration alleges that the ALJ misapplied Department of Human Services Policy as it pertains to the adherence to BEM 233A. Specifically, the Department contends the ALJ failed to adhere to BEM 233A as it relates to triage and the processing of the FIP closure.

BEM 233A provides that program participants will not be terminated from the work participation program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A (May 2012), p. 7. Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 8. Good cause must be considered even if the client does not attend the triage. BEM 233A, p. 8. Good cause must be verified and provided prior to the end of the negative action period. BEM 233A, p. 9.

As noted, policy provides that a triage must be held within the negative action period (thus a Notice of Case Action issued) and a good cause determination must be made prior to the negative action date (i.e. closure of benefits). Good cause is determined **during** triage. BEM 233A, p. 7. Pursuant to BAM 220, A Notice of Case Action must provide the reason(s) for the action. BAM 220 (July 2012), p. 9.

In the record presented, on September 14, 2012, the Department sent a Notice of Non-compliance and a Notice of Case Action to the Claimant. The Department scheduled a triage within the negative action period; however, the Notice of Case Action provided, in relevant part, that the FIP "...benefit has been cancelled..." for the reason that "[y]ou or a group member failed to participate in employment and/or self-sufficiency-related activities or you quit a job, were fired, or reduced your hours of employment **without good cause.**" (emphasis added) Based on the Notice of Case Action, the Department made a finding that good cause did not exist **prior** to the triage date. This contradicts BEM 233A which allows for a good cause determination during triage, not before, and prior to the negative action date. In light of the foregoing, it is found that the Department failed to establish it acted in accordance with Department policy when it issued a Notice of Case Action specifically providing the reason for FIP closure was non-compliance without good cause **prior** to holding a triage. Accordingly, the ALJ's reversal is AFFIRMED.

DECISION AND ORDER

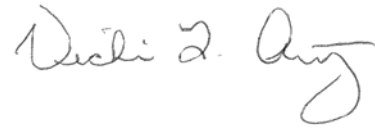
Based on the above findings of fact and conclusions of law, the Administrative Law Judge did not err in reversing the Department's actions finding no good cause prior to the triage.

Accordingly, it is ORDERED:

1. The Hearing Decision of the ALJ mailed on December 13, 2012 is **AFFIRMED** relating to the finding of no good cause on the Notice of Case Action issued prior to the scheduled triage.

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2. The Department shall initiate re-issuance of FIP and FAP benefits from the date of closure (if not previously done) in accordance with Department policy.
3. The Department shall supplement the Claimant for lost FIP and FAP benefits (if any) that the Claimant was entitled to receive, if otherwise eligible and qualified.



Vicki L. Armstrong
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 18, 2013

Date Mailed: July 19, 2013

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cc:

