

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-30597
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: May 20, 2013
County: St. Clair

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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, an in-person hearing was held on May 20, 2013, from Port Huron, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Whether the Department properly sanctioned the Claimant for failing to participate with the PATH program on January 7, 2013?

FINDINGS OF FACT

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

1. On December 10, 2012, a DHS-4785 JET appointment was generated and sent from Lansing to Claimant.
2. On December 11, 2012, a DHS-4785 JET Appointment was generated locally and sent to Claimant.
3. Claimant was given two dates to attend JET: December 17, 2012, or December 26, 2012.

4. On December 26, 2012, Claimant contacted the Department and indicated she should be deferred until the end of December. The Department issued a new DHS-4785 for a January 2, 2013, appointment.
5. On January 2, 2013, Claimant appeared for the appointment and attended a partial day but was asked to leave due to her registration not being current.
6. On January 4, 2013, a triage was held and good cause was granted and Claimant was instructed to return on January 7, 2013.
7. On January 7, 2013, Claimant arrived late to the program and was not allowed to attend.
8. On January 7, 2013, Claimant contacted the Department and the Department found no good cause.
9. On February 14, 2013, Claimant met with the Department to discuss her FIP closure.
10. On February 14, 2013, Claimant requested a hearing to protest 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 Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

In the instant case, Claimant requested a hearing to protest the Department's sanction of her FIP benefits beginning February 1, 2013. Claimant failed to appear for her appointment for PATH on January 7, 2013. Claimant testified she was late for the program which starts at 8:30 am and she arrived approximately 15-20 minutes late. Claimant testified she was late due to getting her children to school and walking to the program. Claimant and the Department agree that Claimant called the Department on January 7, 2013, to report not being allowed to attend PATH activities. The Department testified a triage was held at the time Claimant called on January 7, 2013. The Department noted Claimant's reason for being late and determined she did not have good cause for failing to meet PATH requirements.

According to Department policy found in BEM 233A (January 2013), pp. 7-9, the Department is to complete a triage prior to terminating FIP benefits. In the instant case, the Department considers Claimant's call on January 7, 2013, and the resulting discussion as a triage. However, Department policy requires the Department to schedule a triage. The policy indicates a notice of case action and a notice of employment and/or self-sufficiency-related noncompliance be generated. These notices shall indicate the name of noncompliant individual, the date of initial noncompliance, any and all dates being addressed, reason the client is being determined noncompliant, the penalty and a triage appointment. The Department may want to qualify the January 7, 2013, telephone conversation as a triage, but Department policy requires the above notices be generated prior to the holding of a triage.

Therefore, the Department improperly sanctioned and closed FIP benefits without first properly holding a triage.

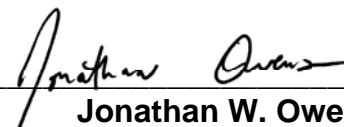
DECISION AND ORDER

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 properly.

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. Remove the FIP sanction instituted on January 8, 2013;
2. Supplement Claimant for any loss in FIP benefits if otherwise eligible.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 6, 2013

Date Mailed: June 6, 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 affect the substantial rights of the claimant:
 - 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

JWO/pf

cc:

