

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-30810
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: April 2, 2013
County: Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 April 2, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] [REDACTED] [REDACTED] [REDACTED] and [REDACTED].

ISSUE

Did the Department properly terminate and sanction the Claimant's Family Independence Program (FIP) for noncompliance?

FINDINGS OF FACT

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

1. As of July 19, 2012, the Claimant was a participant in the FIP program.
2. On July 24, 2012, the Claimant was placed in the retention program based upon her current employment.
3. On October 10, 2012, the Claimant was again placed into the retention program based upon her current employment.
4. On January 15, 2013, Work First mailed the Claimant an appointment letter. The appointment letter indicated the Claimant had to submit check stubs to her career manager on January 23, 2013.
5. On January 23, 2013, the Claimant missed the appointment.

6. On January 23, 2013, Work First mailed the Claimant a noncompliance warning. The warning indicated the prior appointment was being rescheduled for January 31, 2013.
7. On January 31, 2013, the Claimant missed the rescheduled appointment. After the Claimant missed the January 31, 2013 appointment, the Department sent the Claimant a notice of noncompliance and notice of case action. Both notices were sent to the Claimant's last known address of [REDACTED]. The notice of noncompliance indicated a triage was to take place on February 12, 2013. The notice of case action indicated the Claimant's FIP case was being closed for noncompliance.
8. Prior to February 12, 2013, the Claimant received the notice of noncompliance.
9. On February 12, 2013, a triage was conducted in the absence of the Claimant. Based upon the triage, the Department determined the Claimant did not have good cause for failing to attend her Work First appointments.
10. On February 20, 2013, the Claimant requested a hearing.
11. The Claimant has one prior finding of noncompliance.
12. As of April 2, 2013 there is no record of a CPS case regarding the Claimant or Claimant's children.
13. There is no record of the Claimant changing her address from [REDACTED] [REDACTED].

CONCLUSIONS OF LAW

The FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such

compliance have been identified and removed. The goal is to bring the client into compliance.

A Work Eligible Individual (WEI), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

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. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination in Bridges and the FSSP under the "Participation and Compliance" tab.

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for not less than 3 calendar months.
- For the second occurrence on the FIP case, close the FIP for not less than 6 months.
- For the third occurrence on the FIP case, close the FIP for a lifetime sanction.

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. Locally coordinate a process to notify the MWA case manager of triage meetings including scheduling guidelines.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. Clients must comply with triage requirement within the negative action period.

Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA.

If the FIS, JET case manager, or MRS counselor do not agree as to whether "good cause" exists for a noncompliance, the case must be forwarded to the immediate supervisors of each party involved to reach an agreement.

DHS must be involved with all triage appointment/phone calls due to program requirements, documentation and tracking.

Note: Clients not participating with JET must be scheduled for a "triage" meeting between the FIS and the client. This does not include applicants. BEM 233A, p. 7.

If the client establishes good cause within the negative action period, do NOT impose a penalty. See “Good Cause for Noncompliance” earlier in this item. Send the client back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. Do not enter a new referral on ASSIST. Enter the good cause reason on the DHS-71 and on the FSSP under the “Participation and Compliance” tab.

If the client does NOT provide a good cause reason within the negative action period, determine good cause based on the best information available. If no good cause exists, allow the case to close. If good cause is determined to exist, delete the negative action. BEM 233A, pp. 10-11.

Noncompliance is defined by department policy as failing or refusing to do a number of activities, such as attending and participating with WF/JET, completing the FAST survey, completing job applications, participating in employment or self-sufficiency-related activities, providing legitimate documentation of work participation, etc. BEM 233A.

Testimony and other evidence must be weighed and considered according to its reasonableness.¹ Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine.² In evaluating the credibility and weight to be given to the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness’s testimony, and the interest, if any, the witness may have in the outcome of the matter.³

I have carefully considered and weighed the testimony and other evidence in the record and find the Department’s witness to be more credible than the Claimant as the Department witness had a clearer grasp of the dates, times and events in question. Furthermore, I found the Claimant’s argument and recollection of facts unpersuasive in the absence of any supporting documentation, including but not limited to the records and documentation regarding the alleged CPS issue.

Additionally, I found it rather confusing that the Claimant alleged to have received the notice of noncompliance during the first week of February yet couldn’t attend the triage because she received the notice after the triage was conducted. The triage however took place during the 2nd full week of February. So the two statements did not make sense.

Accordingly, I find, based on the competent, material, and substantial evidence presented during the hearing, the Department acted in accordance with policy in closing Claimant’s FIP case as the Claimant did not attend scheduled appointments and did not have good cause for not attending.

¹ *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep’t of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007).

² *Dep’t of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

³ *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

Accordingly, I **AFFIRM** the Department's actions in this matter.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law, decide that:

1. The Department properly closed and sanctioned the Claimant's FIP benefits for noncompliance.

Accordingly, the Department's actions are **AFFIRMED**.



Corey A. Arendt
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 3, 2013

Date Mailed: April 3, 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.

2013-30810/CAA

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Recons ideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CAA/las

cc:

