

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

IN THE MATTER OF:



Reg. No.: 201332979
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: April 3, 2013
County: Wayne County (#19)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted from Detroit, Michigan on Wednesday April 3, 2013. The Claimant appeared and testified along with [REDACTED] (Department Interpreter). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Assistant Payment Supervisor).

ISSUE

Whether the Department properly closed Claimant's for cash assistance ("FIP") benefits for non-compliance with employment related activities?

FINDINGS OF FACT

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

1. On December 16, 2012, the Department received the Claimant's application for FIP benefits.
2. The Claimant notified the Department that she was unable to attend Work First due to an alleged disability.
3. On January 26, 2013, the Department sent Claimant Notice of Case Action denying her FIP benefits for failure to attend the Work Participation Program.

(Exhibit 1).

4. On March 5, 2013, the Department received the Claimant's written hearing request disputing the action.

CONCLUSIONS OF LAW

The Department of Human Services (DHS) 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.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities unless deferred. BEM 233A (December 2011), p. 1. The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program ("JET") or other employment service provider. BEM 233A, pp. 4, 5. 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. BEM 233A, p. 3, 4. An individual who identifies barriers, to include being physically or mentally unfit for job activity, may be temporarily deferred from JET participation. BEM 229 (December 2011), pp. 1, 4. Failure by a client to participate fully in assigned activities while a FIP application is pending will result in automatic denial of a FIP group. A good cause determination is not required for applicants who are non-compliant prior to FIP case opening. The Department may extend the last day a client has to attend orientation when necessary.

Clients who assert a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred for up to three months. The Department is to verify the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs, or DHS-54E, Medical Needs - or other written statement from an M.D./D.O. BEM 230A (December 2011), p. 8. If an individual claims a disability that will last longer than 90 days the Department should request verification of the disability and obtain a Medical Review Team (MRT decision). Once a client claims a disability he/she must provide DHS with verification of the disability when requested. If the client does not provide the requested verifications, the FIP should be placed into closure for failure to provide needed documentation

In this case, the Claimant notified the Department that she had a disability which prevented her from fully participating with the Work Participation Program. It appears

from the record, that the Claimant had been previously deferred from the Work Participation Program in June 2012 for an alleged disability. In December 2012, she was referred back to the JET program. Evidence indicates that the Department took no additional action on the Claimant's new claim of disability. Claimant testified credibly that she submitted medical documentation to the Department several times, but did not receive any response regarding a deferral. Policy requires that the Department act upon a client's claim of disability by requesting verification. If the client does not provide the requested verification then the Department will either deny or close the FIP benefits. If the client provides medical documentation that shows a disability lasting more than 90 days, the Department is required to send the information to the Medical Review Team for a determination. Evidence indicates that the Department did not timely act upon the Claimant's claim of disability, as required, prior to the denial of her FIP application on January 26, 2013.

Accordingly, the Department did not establish that its actions were in accordance with policy.

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 policy when it denied the Claimant's December 16, 2013 FIP application for failure to attend the Work Participation Program.

Accordingly, the Department's FIP determination is hereby, **REVERSED**.

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

1. The Department shall re-register and initiate processing of the December 16, 2012 FIP application, to include appropriate WF/JET referrals after reasonable accommodations or MRT disability determinations are made, in accordance with department policy.
2. The Department shall notify the Claimant of any medical determinations and the FIP determination in accordance with Department policy.
3. The Department shall supplement for FIP benefits that the Claimant was entitled to receive if otherwise eligible and qualified based on the December 16, 2012 application, in accordance with department policy.

M. Howie

MICHELLE HOWIE
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/10/2013

Date Mailed: 4/10/2013

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

MH/hw

cc:

