

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201333086
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: April 10, 2013
County: Wayne County (31)

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 10, 2013. The Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) was [REDACTED] (Family Independence Manager).

ISSUE

Whether the Department properly terminated Claimant's 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. The Claimant was an ongoing FIP recipient who is a mandatory participant in the work participation program.
2. On October 15, 2012, the Department mailed Notice of Work Participation Appointment to Claimant at 8781 Arcadia St Detroit, MI 48204 scheduling her to attend on October 29, 2012. (Exhibit 1)
3. On November 7, 2012, the Department mailed Notice of Non-Compliance to Claimant at 8781 Arcadia St. Detroit, MI 48204, instructing her to attend triage on November 14, 2012 to discuss reasons for non-compliance. (Exhibit 4)

4. On this same date, a Notice of Case Action was mailed informing Claimant that her FIP benefits would terminate effective December 1, 2012 for failure to participate in employment related activities. (Exhibit 3)
5. On December 4, 2012, a phone triage was held. Claimant stated she did not attend work participation orientation because her child care provider did not get a verbal approval from the Department Worker that she would be paid.
6. The Department determined that no good cause for non-compliance was established for not attending orientation.
7. The Department also imposed a three month sanction for a first occurrence of non-compliance with employment related activities.
6. On December 12, 2012, the Department received Claimant's written hearing request.

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) is temporary cash assistance to support a family's movement to self sufficiency. It 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.

The Department requires recipients to participate in the work participation program or other employment and self-sufficiency related activities and to accept employment when offered. BEM 233A (December 2011), p. 1. All Work Eligible Individuals ("WEI"), and non-WEIs, are required to work or engage in employment and/or self-sufficiency-related activities to increase their employability and obtain employment. BEM 233A, p. 2. Failure to participate in employment or self-sufficiency-related activities without good cause is penalized. BEM 233A, p. 7. Non-compliance without good cause with employment requirements for FIP may also affect FAP if both programs were active on the date of FIP non-compliance. BEM 233B (November 2012), p. 1. FIP penalties include a delay in eligibility at application, ineligibility, or case closure for a minimum of 3 months for the first episode of non-compliance, 6 months for the second occurrence, and a lifetime closure for the third episode of non-compliance. BEM 233A, p. 6. An individual is disqualified from a FAP group for non-compliance when the client had

active FIP and FAP benefits on the date of the FIP non-compliance. BEM 233B, p. 2. The individual's removal from the FAP group results in reduction of FAP benefit amount. Good cause is a valid reason for non-compliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. BEM 233A, p. 3. Child care and transportation barriers are common and also constitute good cause for noncompliance. BEM 229 (November 2012),p. 1. The Department is responsible and must assist clients who present with child care or transportation barriers before requiring work participation program attendance. BEM 229, p. 1.

Work 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. Clients can either attend the triage or participate in a conference call if physical attendance is not possible. BEM 233A. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A. Good cause is based on the best information available during the triage *and* prior to the negative action date. BEM 233A. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance or the date the client was considered to be non-compliant; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A. If good cause is established within the negative action period, benefits are reinstated and the client is sent back to the work participation program. BEM 233A.

In this case, Claimant was required to attend the work participation program. She notified the Department that she needed child care to fully participate in the work participation program. Claimant reportedly completed a Child Development & Care ("CDC") application that had not been approved by the Department Worker at the time of the work program appointment. The Department subsequently denied the CDC application for a no need reason, due to Claimant not attending the work program orientation. Policy provides that the Department should not refer a client to the work participation program until it is certain that barriers to participation, such as lack of child care and/or transportation have been removed. That was not done in this case. The Claimant was unable to secure child care prior to October 29, 2012, and thus, the barrier was not removed resulting in the inability to attend the work participation orientation. In light of the foregoing, the Claimant established good cause for not attending the program.

Accordingly, the Department's action is not upheld.

DECISION AND ORDER

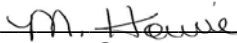
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with policy when it terminated the Claimant's FIP benefits effective

December 1, 2012 based on the failure to participate in employment related activities and imposed a three month sanction.

Accordingly, the Department's FIP and FAP 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 reinstate the Claimant's FIP benefits to the effective date of closure (December 1, 2012), and supplement for lost FIP benefits (if any) that the Claimant was otherwise eligible and qualified to receive in accordance with Department policy.
2. The Department shall remove the three-month sanction imposed for non-compliance.
3. The Department shall refer the Claimant back to the work participation program after any identified barriers are removed, such as lack of child care, in accordance with department policy.



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

Date Signed: 4/18/2013

Date Mailed: 4/18/2013

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:

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- 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:

