

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-35653
Issue Nos.: 1005,1038
Case No.: [REDACTED]
Hearing Date: April 17, 2013
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 17, 2013. The Claimant appeared and testified. Participants on behalf of the Department of Human Services ("Department") included [REDACTED] Family Independence Specialist, [REDACTED] Family Independence Manager, and [REDACTED], Case Manager.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case due to a failure to participate in employment and/or self sufficiency-related activities without good cause?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FIP benefits.
2. On an unverified date, the Department sent Claimant a Work Participation Program Appointment Notice instructing him to attend a work participation program orientation on February 12, 2013, which he did.

3. On February 19, 2013, Claimant submitted to the Department documentation from his doctor indicating that he was not work ready.
4. The Department referred Claimant to the Medical Review Team (MRT) to determine Claimant's ability to participate in work activities.
5. The MRT determined that Claimant was work ready with limitations.
6. On February 27, 2013, the Department sent Claimant a re-engagement letter instructing him to appear for a meeting on March 5, 2013.
7. Claimant attended the meeting on March 5, 2013 and indicated that he disagreed with the determination of MRT.
8. On March 5, 2013, the Department sent Claimant a Notice of Noncompliance instructing him to attend a triage appointment on March 11, 2013 to discuss whether good cause existed for the noncompliance and refusal to cooperate. (Exhibit 2)
9. On March 5, 2013, the Department sent Claimant a Notice of Case Action informing him that the Department intended to terminate his FIP benefits April 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 3)
10. Claimant's FIP case closed effective April 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause and a three month sanction was imposed.
11. On March 11, 2013, the Department received the Claimant's request for a hearing disputing the closure of his FIP case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services 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. BEM 233A (January 2013), p. 1. The WEI can be considered noncompliant for several reasons including: failing or

refusing to appear and participate with the work participation program or other employment service provider, failing or refusing to appear for a scheduled appointment or meeting related to assigned activities, and failing or refusing to participate in employment and/or self-sufficiency related activities. BEM 233A, pp 1, 2. Stating orally or in writing a definite intent not to comply with program requirements is also grounds for noncompliance. BEM 233A, p.2. 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, pp. 3, 4.

Good cause includes any of the following: the client is employed for 40 hours/week, the client is physically or mentally unfit for the job, the client has a debilitating illness or injury or a spouse or child's illness or injury requires in-home care by the client, the Department, employment service provider, contractor, agency or employer failed to make a reasonable accommodation for the client's disability, no child care, no transportation, the employment involves illegal activities, the client experiences discrimination, an unplanned event or factor likely preventing or interfering with employment, long commute or eligibility for an extended FIP period. BEM 233A, p. 4. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p.1.

In processing a FIP closure, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance; the reason the client was determined to be noncompliant; and the penalty duration. BEM 233A, p.8-9. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (November 2012), p. 9. Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 7. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, 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. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 6.

In this case, Claimant was an ongoing recipient of FIP benefits. Claimant was previously deferred from participating in a work participation program due to medical reasons. Because Claimant's deferral ended, the Department sent Claimant a Work Participation Program Appointment Notice instructing him to attend the work participation program on February 12, 2013 for orientation.

Claimant attended the orientation and returned for a workshop the following week on February 18, 2013 as instructed. On February 19, 2013, Claimant submitted documentation from his doctor indicating that due to medical reasons, he was unable to participate in the work program. The Department referred Claimant to MRT to be evaluated for a disability and to determine his ability to work. MRT determined that

Claimant was work ready with limitations. Claimant disagreed with this determination and requested a hearing to address the issue of the MRT decision. A hearing was held and an Administrative Law Judge dismissed Claimant's hearing request because the finding of the MRT is a decision that cannot be appealed. Further, there was no negative action yet taken by the Department, so a hearing at that time was improper.

On February 27, 2013, the Department sent Claimant a re-engagement letter instructing him to appear for a meeting on March 5, 2013. The Department stated that Claimant attended the meeting on March 5, 2013, and at the meeting he indicated that he had requested a hearing because he disagreed with the determination of the MRT and was waiting on the outcome of that hearing. He further stated that he was not work ready according to the documentation from his doctor.

Because of Claimant's refusal to participate in the work program as required, on March 5, 2013, the Department sent Claimant a Notice of Noncompliance instructing him to attend a triage appointment on March 11, 2013 to discuss whether good cause existed for the noncompliance and refusal to cooperate. (Exhibit 2). On March 5, 2013, the Department also sent Claimant a Notice of Case Action informing him that the Department intended to terminate his FIP benefits April 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 3). BEM 233A, pp. 7-9; BAM 220, p. 9.

A triage meeting was conducted on March 11, 2013 at which Claimant appeared. The Department concluded that Claimant did not have good cause for his refusal to participate in the work program, as he was determined to be work ready with limitations by MRT. Claimant's FIP case closed effective April 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause and a three month sanction was imposed. BEM 233A, pp. 6-8.

At the hearing, Claimant verified that at the meeting on March 5, 2013, he stated to the Department that according to the documentation from his doctor, he was unable to work and disagreed with the MRT finding that he was work ready with limitations. Claimant stated that he was waiting on a decision from a hearing that he requested to determine if the decision of the MRT would be upheld. As discussed above, that hearing request was dismissed. The Department relied on Claimant's statements and concluded that Claimant orally refused to participate in the work program and conducted a triage to determine if Claimant had good cause for his noncompliance. While, pursuant to BEM 233A, a disagreement with the Department's Medical Review Team is not good cause for failing to participate in work readiness activities; Claimant's statements that he does not agree with the determination of the MRT do not amount to a definite intent not to comply with program requirements as required under BEM 233A, p.2, 4. There was no evidence presented to establish that Claimant specifically stated his refusal to attend the work program or that he did not want to participate. Claimant attended each appointment that he was instructed to attend and did not present an unwillingness to attend future appointments. Therefore, the Department interpreting Claimant's disagreement with the finding of MRT as a definite intent not to comply with program

requirements was improper. Rather than conduct a triage to discuss Claimant's noncompliance, the Department should have instead sent Claimant an appointment notice and instructed him to attend the work program, as he did not specifically state an intention not to participate and should have not been found in noncompliance.

Accordingly, it is found and determined that the Department did not act in accordance with Department policy when it terminated Claimant's FIP benefits and imposed a three month penalty.

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 Department policy when it terminated Claimant's FIP benefits due to noncompliance without good cause and imposed a three month penalty.

Accordingly, the Department's 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 sanction that was imposed on Claimant's FIP case;
2. Initiate reinstatement of Claimant's FIP case effective April 1, 2013 in accordance with Department policy;
3. Begin issuing supplements to Claimant for any FIP benefits that he was entitled to receive but did not from April 1, 2013, ongoing; and
4. Notify Claimant of its decision in writing in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 24, 2013

Date Mailed: April 24, 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

ZB/cl

cc:

