

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201334272
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: April 10, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 10, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Specialist, and [REDACTED], PATH Coordinator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for failure to comply with employment-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 applied for benefits received benefits for:
 - Family Independence Program (FIP). Adult Medical Assistance (AMP).
 - Food Assistance Program (FAP). State Disability Assistance (SDA).
 - Medical Assistance (MA). Child Development and Care (CDC).
 - Direct Support Services (DSS).

2. The Department closed Claimant's FIP case, effective April 1, 2013, due to failure to comply with employment-related activities without good cause.

3. On February 19, 2013, the Department sent Claimant notice of the Department's actions.
4. On March 6, 2013, Claimant filed a hearing request, protesting the Department's actions.

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 1999 AC, R 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Additionally, on February 19, 2013, the Department sent Claimant a Notice of Case Action advising her that, based on her noncompliance with employment-related activities without good cause, her FIP case would close for a minimum six-month period beginning April 1, 2013.

Closure of FIP Case

The Department explained that Claimant had originally been found in noncompliance in January 2013. At the triage in connection with that incident of noncompliance, Claimant explained that she had stopped attending the work participation program because a man had threatened her as she exited the program and she presented a personal protection order (PPO) to support her claim. The Department determined that Claimant had good cause for the noncompliance. During the triage, Claimant agreed that she would reengage in the work participation program at the same location she had been attending, and the Department re-referred her to the program. Claimant did not reengage in the program. Thus, Claimant failed to comply with assigned activities, contrary to the requirements of Department policy. See BEM 230A (January 1, 2013), p 1; BEM 233A (January 1, 2013), pp 1-2.

On February 19, 2013, the Department sent Claimant a Notice of Noncompliance, advising her that she had failed to comply with employment-related activities and scheduling her for a triage February 25, 2013. At the triage, the Department is required to consider whether Claimant had good cause for her noncompliance. BEM 233A, pp 7, 8. Good cause is a valid reason for failing to participate in employment and/or self-sufficiency-related activities based on factors beyond the control of the noncompliant person. BEM 233A, pp 3-4. Good cause is based on the best information available during the triage and prior to the negative action date and may be verified by information already on file with the Department or the work participation program. BEM 233A, p 8.

In this case, Claimant did not attend the triage. While Claimant testified that she did not receive the Notice of Noncompliance, she admitted she did receive the Notice of Case Action sent on the same day informing her that her FIP case would close for failure to comply with employment-related activities. The Department credibly testified that the Notice of Noncompliance was sent to Claimant at the same address the Notice of Case Action was sent. Under these circumstances, Claimant failed to rebut the presumption that she received notice of the triage, which was sent to Claimant at her address in the regular course of business. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976).

Because Claimant did not attend the triage and did provide any good cause explanation for her noncompliance, the Department had to determine whether it was aware of any good cause explanation prior to the April 1, 2013 effective date of the FIP closure. Although Claimant testified that she contacted her worker to explain that concerns for her safety prevented her from going back to the work participation program, she admitted that she contacted the Department after she had already failed to attend the program and that the message she left for her worker did not explain her concerns. She also admitted that she had not contacted the work participation program worker to express her concerns. Based on these facts, the Department acted in accordance with Department policy when it concluded that Claimant had failed to establish good cause for her failure to comply with employment-related activities and closed and sanctioned her FIP case.

FIP Sanction

The February 18, 2013 Notice of Case Action notified Claimant that her FIP case would close for six months. A client's noncompliance results in closure of the client's FIP case for not less than three calendar months for a first occurrence of noncompliance, not less than six calendar months for a second occurrence of noncompliance, and lifetime for a third occurrence of noncompliance. BEM 233A (January 1, 2013), p 6. At the hearing, the Department acknowledged that it had erred in applying a six-month sanction and testified that, because this was only Claimant's first noncompliance occurrence, she was subject to only a three-month sanction. Thus, the Department did not act in accordance with Department policy when it applied a second FIP sanction to Claimant's FIP case and closed her case for a six-month minimum.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department acted in accordance with Department policy when it closed Claimant's FIP case because Claimant did not have good cause for her noncompliance, but did not act in accordance with Department policy when it applied the penalty for a second sanction and closed her FIP case for a six-month minimum.

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 act properly when it closed Claimant's FIP case for failure to comply with employment-related activities without good cause.

did not act properly when it applied a six-month sanction to Claimant's FIP case.

Accordingly, for the reasons stated above and on the record, the Department's FIP decision is AFFIRMED IN PART with respect to the closure of Claimant's FIP case for noncompliance with employment-related activities without good cause and REVERSED IN PART with respect to the application of a six-month sanction to Claimant's FIP case.

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

1. Begin removing the six-month sanction applied to Claimant's FIP case on or about April 1, 2013, and
2. Begin applying, effective April 1, 2013, a three-month sanction applicable to a first occurrence of noncompliance with employment-related activities without good cause.



Alice C. Elkin
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:
 - 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

ACE/hw

cc:

