

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-38669  
Issue Nos.: 1005,1038  
Case No.: [REDACTED]  
Hearing Date: April 29, 2013  
County: Wayne (35)

**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 Monday, April 29, 2013. Claimant appeared and testified. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Specialist.

**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 January 4, 2013, the Department sent Claimant a Noncompliance Warning Notice instructing her to attend a reengagement meeting on January 11, 2013 to discuss her noncompliance in a required activity. (Exhibit 2)

3. Claimant attended the reengagement meeting and established good cause for her noncompliance.
4. Claimant signed a JET Program Reengagement Agreement stating that she would complete assigned activities and turn in required documentation. (Exhibit 3).
5. Claimant did not comply with the terms of the JET Program Reengagement Agreement and as a result, on March 20, 2013 the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on March 28, 2013 to discuss whether good cause existed for her noncompliance in submitting education logs. (Exhibit 5)
6. On March 20, 2013, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits effective May 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 6)
7. Claimant's FIP case closed effective May 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause and a six month sanction was imposed.
8. On March 28, 2013, the Department received the Claimant's request for a hearing disputing the closure of her 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. 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, pp.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. A triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp.7-8 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. As a condition of receiving FIP benefits, Claimant was required to participate in a work participation program. Claimant attended her scheduled orientation on December 10, 2012 but did not report back to the work participation program from December 14, 2012 through December 16, 2012, as she was instructed to do. As a result of Claimant's failure to attend on January 4, 2013, the Department sent Claimant a Noncompliance Warning Notice informing her that she was required to attend a reengagement meeting on January 11, 2013 to discuss whether good cause existed for her lack of attendance in the work participation program. (Exhibit 2). Claimant attended the reengagement meeting and provided the Department with documentation establishing her good cause for her lack of attendance. Claimant signed a JET Program Reengagement Agreement whereby Claimant agreed to complete assigned activities and turn in required documentation among other things. (Exhibit 3).

At the hearing, the Department testified that Claimant was required to submit education logs on a weekly basis and a copy of her school schedule so that the Department could determine how many hours Claimant would be required to participate in the work program each week. Claimant testified that at the reengagement meeting, she provided the Department with proof that she is enrolled in school and her schedule of classes. Claimant also stated that at reengagement meeting she informed the Department that her school would not verify her attendance until the end of the semester; however, she did not get this in writing and subsequently did not inform the Department that she was having a problem getting her education logs signed by the school on a weekly basis.

After the reengagement meeting, Claimant failed to submit to the Department the required weekly education logs for her school attendance so that the Department could determine the proper work participation hours for which she should be scheduled. As a result, on March 20, 2013 the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on March 28, 2013 to discuss whether good cause existed for her noncompliance in submitting education logs. (Exhibit 5). On that same date, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits effective May 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 6). BEM 233A, pp. 7-9;BAM 220, p. 9.

A triage meeting was conducted on March 28, 2013, at which Claimant appeared. The Department concluded that Claimant did not have good cause for her failure to submit weekly education logs and that no good cause existed for her failure to inform the Department that she was having problems getting her weekly attendance and participation verified. BEM 233 A, p. 4. At the hearing, Claimant provided the class schedule that she submitted to the Department at the reengagement meeting; however, this was not sufficient for the Department to verify that she was attending and participating in these classes weekly, which was a condition of her eligibility to receive FIP benefits. (Exhibit A).

The Department closed Claimant's FIP case effective May 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause and a six month sanction was imposed. BEM 233A, p. 8. The Department acknowledged that the imposition of the six month penalty was improper and the correct penalty should be three months, as this was Claimant's first occurrence of noncompliance without good cause. BEM 233A, p. 6.

Because there was no good cause established for Claimant's failure to submit the required education logs and failure to inform the Department of the difficulty she was having in getting her weekly attendance logs verified by her school, the Department acted in accordance with Department policy when it closed Claimant's FIP case based on noncompliance with employment and/or self-sufficiency related required activities without good cause. However, the Department did not act in accordance with Department policy when it improperly imposed a six month sanction for Claimant's first


occurrence of noncompliance without good cause. Accordingly, the Department's actions are AFFIRMED in part and REVERSED in part.

**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 acted in accordance with Department policy when it terminated Claimant's FIP benefits effective May 1, 2013 due to noncompliance without good cause. It is further found that the Department did not act in accordance with Department policy when it improperly imposed a six month sanction for Claimant's first occurrence of noncompliance without good cause. Accordingly, the Department's actions are AFFIRMED in part and REVERSED in part.

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

1. Remove the six month penalty imposed on Claimant's FIP case for her first occurrence of noncompliance without good cause; and
2. Impose a three month penalty.

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

Date Signed: May 8, 2013

Date Mailed: May 8, 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  
Re consideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

ZB/cl

cc:

