

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

IN THE MATTER OF:

[REDACTED]
Hearing Issue

Reg. No: 2013-44036
Case No: [REDACTED]
No: 1038
Date: May 30, 2013
County: Genesee-02

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on April 22, 2013. After due notice, a telephone hearing was held on May 30, 2013. Claimant, accompanied by a friend and her parents, personally appeared and provided testimony. Success Coach [REDACTED] [REDACTED] appeared on behalf of the department.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) and decrease Claimant's Food Assistance Program (FAP) benefits?

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 receiving FIP and FAP benefits.
2. On December 13, 2012, Claimant's treating physician completed a medical examination of Claimant and submitted a Medical Needs-Jet form to DHS. Claimant was diagnosed with back pain, left hip pain, anemia, hypertension, and obesity. The physician indicated Claimant was unable to work at her usual occupation or at any job. The physician also indicated Claimant required assistance in the home with housework, laundry and shopping. (Dept Ex. A, pp 10-11).
3. On February 14, 2013, an MRT assessment for JET participation project was completed for Claimant indicating that Claimant was work ready with limitations, never lifting 50 pounds, able to sit/stand 6 hours in an 8-hour work day. MRT denied Claimant's request for a deferral from JET. (Dept Ex. A, pp 5-7).

4. On April 10, 2013, the Department sent Claimant notice of the closure. Effective May 1, 2013, the Department closed Claimant's FIP case due to Claimant failing to attend the scheduled PATH appointment on 3/25/13. FAP was decreased based on a member of the FAP group failing to participate in an employment related activity.
5. On April 22, 2013, Claimant filed a hearing request, protesting the closure of the FIP case and decreased in FAP benefits.
6. On April 17, 2013, a triage was held. Claimant had telephoned three times regarding a telephone triage. Claimant did not attend the triage.

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.

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause. The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance. BEM 233A.

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see [BEM 228](#), who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance.

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. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination in Bridges and the FSSP under the Participation and Compliance tab. BEM 233A.

If it is determined during triage the client has good cause, and good cause issues have been resolved, the client is sent back to PATH and there is no need for a new PATH referral. BEM 233A.

Good cause includes the client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance. Good cause also includes the client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client. BEM 233A.

In this case, the triage was on 4/17/13. At the time of triage, the department had received the Medical Needs form and Medical Evaluation form from Claimant's treating physician. The Medical Needs form clearly indicated Claimant was unable to work at her usual occupation or any job. Because Claimant's treating physician's opinion is well supported by medically acceptable clinical and laboratory diagnostic techniques, it has controlling weight. 20 CFR 404.1527(d)(2).

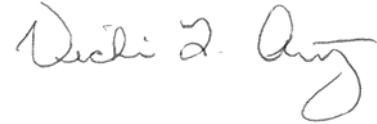
Moreover, there is a discrepancy in documentation submitted by the department that was not addressed during the hearing. The case notes on page 31 indicate Claimant did not respond to her notice of noncompliance and was scheduled for triage. Triage was on 4/17/13 and the notes indicate no call, no show. However, the hearing summary indicates that Claimant called three times requesting a telephone triage, which supported Claimant's testimony.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not act properly. Accordingly, the Department's FIP and FAP decision is **REVERSED** for the reasons stated on the record.

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

Determine eligibility in accord with this decision and award any retroactive FIP benefits in addition to reinstating the FIP program and original FAP benefits before the closure.



Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 3, 2013

Date Mailed: June 3, 2013

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

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

2013-44036/VLA

VLA/las

cc:

