

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

IN THE MATTER OF:

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Reg.No. 2013-48791
Issue No. 1038
Case No. ██████████
Hearing Date: June 20, 2013
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on June 20, 2012. The Claimant appeared and testified. ██████████, FIS, appeared on behalf of the Department.

ISSUE

Whether the Department correctly sanctioned and closed the Claimant's cash assistance (FIP) for noncompliance with work-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. The Claimant was an ongoing participant of the Path program and was an ongoing recipient of FIP benefits.
2. The Department sent a notice of noncompliance to the Claimant on April 30, 2013. The Notice scheduled a triage for May 7, 2013. Exhibit 3
3. The Claimant did attend the triage. At the triage the Department gave the Claimant an opportunity to provide information demonstrating good cause that she was either attending or was going to be attending a high school or GED class. The Claimant was to provide the information by May 11, 2013. Exhibit 5
4. The Department sent a Notice of Case Action on April 30, 2013 closing the Claimant's FIP case for 6 months effective June 1, 2013. Exhibit 4

5. The Claimant did not provide the requested information by the due date.
6. The Claimant requested a hearing on May 19, 2013 protesting the closure of her FIP cash assistance case.

CONCLUSIONS OF LAW

The Family Independence Program ("FIP") was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services ("DHS" or "Department"), formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq* and Michigan Administrative Code Rules 400.3101-3131. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A All Work Eligible Individuals ("WEI") as a condition of eligibility must engage in employment and/or self-sufficiency related activities. BEM 233A The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program ("JET") or other employment service provider. BEM 233A 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 Failure to comply without good cause results in FIP closure. BEM 233A The first and second occurrences of non-compliance result in a 3 and 6 month FIP closure respectively. BEM 233A The third occurrence results in a Lifetime sanction.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. 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; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A In addition, a triage must be held within the negative action period. BEM 233A A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A. However, a failure to participate can be overcome if the client has good cause. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the claimant. BEM 233A. The penalty for noncompliance is FIP closure.

BEM 233A provides direction to the Department as follows when determining good cause:

Clients must comply with triage requirement and provide good cause verification within the negative action period. Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or the work participation program. BEM 233A, page 8.

In this case, the Claimant was assigned to attend Work First and a triage was held which the Claimant attended. At the triage the Claimant was afforded the opportunity to provide proof that she was attending a high school completion or GED completion program and was given 4 days to provide the information. The Claimant did not provide the information by the due date and the Department proceeded to close the Claimant's FIP case due to noncompliance without good cause and a second sanction (6 months) was imposed by the Department. At the hearing the Claimant did not provide any evidence that she had presented the requested information to the Work First program and testified that she was assaulted outside the Work First office so she could not provide the information. Even assuming this testimony was credible, the fact of an alleged assault on the day the information was due did not excuse the Claimant from failing to submit the information at some later date to the Path program as required. The Claimant's testimony in this regard is determined to be not credible.

The evidence presented demonstrated that the Department held a triage and that at the triage the Department determined that the Claimant was given an opportunity to demonstrate good cause. Thereafter the Department had no other evidence provided by the Claimant to demonstrate good cause because the Claimant did not present any. Based upon the evidence presented and the testimony of the Claimant it is determined that the Department correctly found no good cause and instituted closure of the Claimant's FIP case. Unfortunately, the Claimant's inaction with regard to attending Work First and not communicating with the program caused the sanction to be properly imposed.

Based on the above Findings of Fact and Conclusions of Law and the testimony of witnesses and the documentary evidence received, the Department has demonstrated that it correctly followed and applied Department policy in closing and sanctioning the Claimant's FIP case for noncompliance without good cause and imposing a 6 month sanction. BEM 233A.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department correctly closed the Claimant's cash assistance FIP case, and correctly imposed a 6 month sanction closing the claimant's case for noncompliance with work-related activities for non-participation with the Path Program. Accordingly, the Department's determination is AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: June 25, 2013

Date Mailed: June 25, 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.

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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

LMF/cl

cc:

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