

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 52821
Issue No. 1038
Case No. ██████████
Hearing Date: July 15, 2013
Wayne (17)

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 July 15, 2013. The Claimant appeared and testified. An interpreter, ██████████, appeared as the translator for the Claimant. ██████████ FIS Case Manager, 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 recipient of FIP cash assistance benefits.
2. The Claimant sought a medical deferral and a medical packet was sent to the MRT by the Department. During this period the Claimant was deferred.
3. On May 1, 2013 the Claimant was found not disabled or deferred by the MRT and was found work ready with the following mental limitations, Limited to unskilled work (can be learned in 30 days or less.)
4. The MRT did receive the medical evidence obtained by the Department and submitted by the Claimant, including the DHS 49 D and E with a psychiatric evaluation.

5. The Department sent a notice of appointment to attend PATH to the Claimant on May 14, 2013 and the Claimant was to attend PATH on May 21, 2013.
6. The Claimant did report for orientation with her medical documents and was turned away from the Work First program.
7. The Claimant advised the Work First program that she could not attend due to her mental impairments, that she could not work.
8. The Department sent a Notice of Non Compliance to the Claimant dated June 3, 2013 scheduling a triage for June 10, 2013. The Claimant attended the triage and did not submit any new medical information at the triage.
9. At the triage the Department found no good cause for the Claimant's refusal to attend the PATH program and imposed a sanction closing the Claimant's FIP case for 3 months.
10. The Department sent a Notice of Case Action on June 3, 2013 closing the Claimant's FIP case for 3 months effective June 1, 2013.
11. The Claimant requested a hearing on June 10, 2013 protesting the closure of her FIP cash assistance case asserting that she is disabled and cannot do any work and that she now has a psychiatrist.

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 PATH program 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 the PATH 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 the PATH orientation. The Claimant reported to the orientation as assigned but presented to the program her medical records and advised the program that she could not work due to her medical condition. The program sent the Claimant away and advised her to advise the Department. Prior to the assignment of the Claimant to attend the PATH orientation the Department sent a medical packet to the MRT for their review to determine if the Claimant should be deferred. The MRT found the Claimant work-ready with the only restriction being that she was capable of unskilled work that could be learned in 30 days. A triage was also held in this case at which time the Claimant submitted her medical records that were previously provided to the MRT, no new medical evidence was provided. The Department conducted a triage and found no good cause based upon the MRT denial of deferment and in light of the Claimant's statement that she could not work, and imposed a sanction for non-compliance with work-related activities. The records presented at the hearing indicate that Claimant's refusal to attend the Work First program is based upon her belief that she is disabled and cannot work, however, it has been determined that

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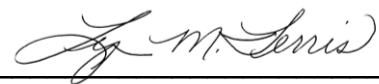
she is not deferred based upon her medical evidence and therefore she did not have good cause not to attend the PATH program.

The evidence presented demonstrated that the Department held a triage and that at the triage the Department determined that the Claimant had failed to participate in the PATH program without good cause based upon her refusal to attend the Program. Even though the Claimant reported for orientation, the Claimant knew that the MRT had denied her deferral and that she was required to attend having been found work-ready with limitations. At the triage the Claimant did not present and had no other new medical evidence to provide to the Department to consider or forward to the MRT based upon a new medical condition and thus correctly found no good cause at the triage.

Based of 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 3 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 3 month sanction closing the Claimant's case for noncompliance with work-related activities for non-participation with the Work First program. Accordingly, the Department's determination is AFFIRMED.



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

Date Signed: July 22, 2013

Date Mailed: July 22, 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

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cc: [REDACTED]
[REDACTED]
[REDACTED]
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