

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2013-53958
Issue No.: 1038
Case No.: ██████████
Hearing Date: July 18, 2013
County: Wayne (23)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 July 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Family Independence Specialist.

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's 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 March 29, 2013, Claimant failed to participate in employment and/or self-sufficiency-related activities. Exhibit 1.
3. On June 13, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment in June 2013. Exhibit 1.

4. On June 13, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective July 1, 2013, based on a failure to participate in employment and/or self-sufficiency-related activities without good cause. Exhibit 1.
5. In June 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency-related activities.
6. On June 19, 2013, Claimant requested a hearing, disputing the FIP benefit termination. Exhibit 1.

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 Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2013), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1. PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A (January 2013), p. 7. Good cause is determined during triage. BEM 233A, p. 7. 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 and must be verified. BEM 233A, p. 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, pp. 3-5.

In this case, Claimant was an ongoing recipient of FIP benefits. On March 29, 2013, Claimant failed to participate in employment and/or self-sufficiency-related activities. Exhibit 1. On June 13, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment in June 2013. Exhibit 1. On June 13, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective July 1, 2013, based on a failure to participate in

employment and/or self-sufficiency-related activities without good cause. Exhibit 1. In June 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency-related activities.

At the hearing, the Department testified that Claimant failed to present any good cause at triage. The Department testified that Claimant's inability to participate with employment and/or self-sufficiency-related activities was due to her obligations with her children.

Clients requesting a deferral from PATH due to pregnancy complications must provide medical verification that indicates that they are unable to participate. BEM 230A, p. 7. An individual requesting deferral greater than 90 days for pregnancy complications is not subject to the requirements for establishing long-term incapacity. BEM 230A, p. 7. A person with a condition or impairment that is pregnancy related must be deferred for a problem pregnancy. BEM 230A, p. 9.

Claimant testified that she was attempting to attend the work participation program. However, Claimant testified that she does have children ranging from the ages of 1 to 7. Claimant testified that it is difficult to attend the work participation program due to her children's school and transportation issues. Moreover, Claimant testified that she is eight months pregnant. Claimant testified that she does have a high risk pregnancy and notified the Department about this at triage. Claimant did not present documentation at the time of triage of the high risk pregnancy. Claimant did provide proof of her pregnancy complication at the hearing. See Exhibit A.

Nevertheless, the Department improperly closed Claimant's FIP benefits effective July 1, 2013, ongoing. First, Claimant credibly testified that she has good cause because she is caring for her children and having transportation issues. These transportation issues include traveling to/from her children and the work participation program. Second, Claimant is pregnant. Even though Claimant did not provide documentation at triage, Claimant notified the Department that she is a high risk pregnancy. The Department should have requested verification and deferral from the PATH program due to pregnancy complications. See BEM 230A, pp. 7, 9, and 20.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective July 1, 2013, ongoing, in accordance with Department policy.

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 improperly closed Claimant's FIP benefits effective July 1, 2013, ongoing, in accordance with Department policy.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED 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:

1. Remove Claimant's first FIP sanction from her case;
2. Begin reinstating Claimant's FIP case effective July 1, 2013, ongoing; and
3. Begin issuing supplements to Claimant for any FIP benefits she was eligible to receive but did not from July 1, 2013, ongoing.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 26, 2013

Date Mailed: July 26, 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 affect the substantial rights of the claimant,
 - 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

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]