

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2013-6386
Issue No.: 1012
Case No.: 1 [REDACTED]
Hearing Date: April 3, 2013
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Wednesday, April 3, 2013. The Claimant appeared, along with her daughter, [REDACTED] testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED]

ISSUE

Whether the Department properly denied the Claimant's May 29, 2012 application for cash assistance ("FIP") 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. The Department received the Claimant's application for FIP benefits on May 29, 2012.
2. On August 6, 2012, the Department received an Employee Termination Notice regarding the Claimant. (Exhibit 1)
3. On August 22, 2012, the Department sent a Notice of Case Action tot the Claimant notifying her that FIP benefits were denied due to the employment termination. (Exhibit 2)

4. On October 10, 2012, the Department received the Claimant's written request for hearing. (Exhibit 3).

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("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, Rules 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 (May 2012), p. 1. Non-compliance with employment and/or self-sufficiency activities includes the firing for misconduct or absenteeism (not for incompetence) and is considered a refusal of suitable employment. BEM 233A p. 3. Misconduct sufficient to warrant firing includes any action by an employee, or other adult group member, that is harmful to the interest of the employer and is done intentionally or in disregard of the employer's interest, or is due to gross negligence. BEM 233A p. 3. This includes drug or alcohol influence while at work; physical violence; theft; or willful destruction of property connected with the individual's work. BEM 233A, p. 3. Non-compliance by a WEI while the application is pending, results in group ineligibility. BEM 233A, p. 5.

In this case, the Department received the Claimant's application for public assistance seeking FIP benefits on May 12, 2012. At this time, the Claimant was employed at a child care center. While the application was pending, the Department received notification from the Claimant's employer that she was discharged based on a questionable high school transcript in her employment file. The Claimant testified that the transcript was reportedly discovered when new owners took over. The Claimant adamantly denied completing and/or submitting any false documentation and that she never stated she was a high school graduate. In September, the Claimant was called back to work by the employer.

Prior to the denial, the Claimant contacted the Department regarding the employment separation. Despite the Claimant's statements, the Department denied the Claimant's FIP benefits finding the separation was due to misconduct. In consideration of the facts presented, the Claimant's short separation from employment did not rise to the level of misconduct. Accordingly, the Department's FIP denial is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department's denial of the May 29, 2012 FIP application based is not upheld.

Accordingly, it is ORDERED:

1. The Department's FIP determination is REVERSED.
2. The Department shall re-register and initiate processing of the May 29, 2012 FIP application in accordance with department policy.
3. The Department shall notify the Claimant of the determination and supplement for lost benefits that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.



Colleen M. Mamelka

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

Date Signed: April 11, 2013

Date Mailed: April 15, 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

CMM/tm

cc:

