

**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.: 2013-69608
Issue No.: 1038
Case No.: ██████████
Hearing Date: October 23, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 23, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her husband, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, JET Case Manager, ██████████, ██████████, ██████████, DHS Coordinator for Michigan Works, and ██████████. ██████████ Career Development Facilitator for ██████████.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and impose a sanction due to a 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. Claimant sought deferral from participation in the work participation program as a spouse who provides care for a spouse with disabilities living in the home.
3. On ██████████, the Department sent Claimant a verification checklist for which she was required to submit requested verifications by ██████████. (Exhibit 1)

4. On [REDACTED] the Department sent Claimant a Noncompliance Warning Notice instructing her to attend a reengagement meeting on August 5, 2013. (Exhibit 2)
5. On [REDACTED], the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on [REDACTED] to discuss the noncompliance. (Exhibit 3)
6. On [REDACTED], the Department sent Claimant a Notice of Case Action informing her that effective [REDACTED], her FIP case would be closing and a three month sanction imposed, based on a failure to participate in employment related activities without good cause. (Exhibit 4)
7. On [REDACTED], Claimant submitted a hearing request disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

Additionally, as a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities. BEM 233A (July 2013), p. 1. A person alleging a disability can be temporarily deferred from participating in the work program as a condition of FIP eligibility. BEM 230A (July 2013), pp.9-13. A spouse who provides care for a spouse with disabilities living in the home is not a WEI and is not referred to PATH if: (i) the spouse with disabilities lives with the spouse providing care and (ii) a doctor verifies all of the following in writing or by using a DHS-54A, Medical Needs, form or DHS-54E, Medical Needs-PATH: the spouse with disabilities requires a caretaker due to the extent of the disability, the spouse is needed in the home to provide care; and the spouse/parent cannot engage in an employment-related activity due to the extent of care required. BEM 230A, pp.18-19.

In this case, Claimant sought a deferral from participation in the PATH program on the basis that she cares for her disabled spouse. The Department requested that Claimant submit verification regarding the deferral and verification from a doctor that Claimant's spouse requires a caretaker. The Department testified that because it did not receive the requested verifications by the [REDACTED], due date, it scheduled a reengagement meeting with Claimant. (Exhibits 1 and 2). The Department stated that because

Claimant did not attend the reengagement meeting on [REDACTED] it sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting to determine if Claimant had good cause for her noncompliance in not attending the reengagement meeting. The Department further testified that the outcome of the triage was the determination that Claimant had no good cause for her noncompliance and Claimant's FIP case was closed and a three month sanction imposed.

At the hearing, Claimant and her husband testified that they submitted the requested verifications to the Department prior to the due date. Claimant stated that she dropped the documents off at the local Department office and signed her name to the sign in log at the front desk. The sign in logs were reviewed at the hearing. After reviewing the sign in logs, it was discovered that on [REDACTED], Claimant and her husband appeared at the local Department office, dropped off verifications and signed their name.

Despite the Department's testimony that it did not receive any of the requested documents, there is sufficient evidence to establish that Claimant did in fact submit verifications by the [REDACTED], due date. Therefore, the Department should not have closed Claimant's FIP case and imposed a sanction prior to making a determination regarding Claimant's request for deferral as the caretaker of her disabled spouse.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FIP case and imposed a three month sanction for failure to cooperate with employment related activities without good cause.


DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the sanction imposed on Claimant's FIP case;
2. Reinstate Claimant's FIP case effective [REDACTED];
3. Process Claimant's request for deferral as a caretaker of a disabled spouse;
4. Issue supplement's to Claimant for any FIP benefits that she was eligible to receive but did not from [REDACTED] ongoing; and

5. Notify Claimant of its decision in writing.



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

Date Signed: October 25, 2013

Date Mailed: October 28, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:
Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ZB/tm

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