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

IN THE MATTER OF:



Reg. No.: 2014-16134

Issue No(s).: 1007

Case No.: Hearing Date:

January 14, 2014

County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 t elephone hearing was held on January 1 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, on behalf of the Department of Human Services (Department) included Case Manager, and Michigan Works Agency Employment Specialist

ISSUE

Did the Department pr operly close Claimant's Family Independence Progr am (FIP – Cash Assistance) benefits and impose a second penalty for non-compliance with FIP?

FINDINGS OF FACT

The Administrative Law Judge, based on t he competent, material, and substaintial evidence on the whole record, finds as material fact:

- Claimant was an on-going FIP recipient.
- 2. Claimant was previously sanctioned with the loss of her FIP for three months (May 1, 2013 through July 31, 2013) because of non-compliance.
- 3. Claimant reported on November 5, 2013 t hat she was no longer working at a temporary work assignment through
- 4. Claimant was instructed to appear at the Department on November 8, 2013 to sign a participation plan and submit proof t hat she had engaged in 24 hours of work search.
- 5. Claimant did not appear for the November 8 appointment.
- 6. A notice of non-compliance was mailed to Claimant on November 12 because of her absence on November 8.

- 7. On November 18, 2013 Claimant signed a Work and Self-Sufficiency Rules form acknowledging what was expected of her as she received FIP.
- 8. A triage appointment was scheduled for Claimant at 9:00 a.m. on December 2, 2012.
- 9. Claimant did not attend the triage appointment.
- 10. On December 2, 2013, the Departm ent conclu ded Claim ant was in non-compliance with her responsibilities for continuing her FIP.
- 11. On December 3, 2013, Claimant submitted a hearing request.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Service s Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), D epartment of Human Service es 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 W ork Opportunity Reconc iliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Depar tment (formerly known as the Family Independenc e Agency) administers FIP pursuant to MC L 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

As stated in BEM 233A,

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related ass ignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

If a client does not comply with self-sufficiency activities or work, they can be penalized:

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

Failing or refusing to:

 Appear and participate with PATH or other employment service provider.

* * *

- Provide legitimate documentation of work participation.
- Appear for a scheduled appointment or meeting related to assigned activities.
- Participate in employment and/or self-sufficiencyrelated activities.
- Participate in required activity.

If a client does not comply, they can avoi d penalties by showing they had good cause for non-compliance.

Good cause is a valid reason for noncom pliance with employ ment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination in Bridges and the FSSP under the Participation and Compliance tab.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral.

BEM 233A lists a number of examples of good caus e, but none of them are arguab ly applicable here. The Claimant explained that she did not attend the November 8 meeting with the Michigan Works Agency because she did not have documentation that she had spent 24 hours searching for work. Once the Claimant lost her job with Workforce Solutions , she did very little to maintain contact with MWA or the Department. The only action she took was to sign the Work and/or Self -Sufficiency Rules for Cash Recipients (Exhibit 1 Page 5) on November 18, 2013, and submit a hearing request (Exhibit 1 Page 4) on December 2, 2013. She did not participate a s required in multiple duties, and she did not establish good cause for her non-compliance.

The penalties for non-compliance are found at page 1 of BEM 233A:

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care , and disqualified aliens), see BEM 228, who fails, without good c ause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the cas e situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or terminat ion of FIP with no minimum penalty period).
- Case closure for a minimum of th ree months for the first episode of noncompliance, six months fo r the second episode of noncompliance and lifetime clos ure for the third episode of noncompliance.

Because the Claimant was subject to a sanction previously, she was properly subject to the sanction imposed for a second episode of non-compliance.

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 acted in accordance with Department policy when it closed Claimant's FIP and imposed a six month sanction for her second episode of non-compliance.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 15, 2014

Date Mailed: January 15, 2014

NOTICE OF APP EAL: The claimant may appea I the Dec ision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, i f a timely Request for Rehearing or Reconsiderati on was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order. MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 or iginal 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 clai mant must specify all reas ons 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

DTSJ/las

