

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

IN THE MATTER OF:



Reg. No.: 201428563
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: March 20, 2014
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 March 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for failure to maintain employment?

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 January 24, 2014, Claimant lost her employment.
3. On January 29, 2014, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she had failed to comply with her FIP-required employment activities and scheduling a triage on February 6, 2014 and (ii) a Notice of Case Action notifying her that her FIP case would close effective March 1, 2014 for a three-month minimum based on her failure to participate in employment activities.

4. Claimant attended the February 6, 2014 triage and explained that she was fired because of poor attendance.
5. The Department concluded that Claimant did not have good cause for her termination of employment.
6. On February 21, Claimant filed a request for hearing 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 continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2013), p. 1; BEM 233A (July 2013), p. 1. A client is noncompliant if the client refuses suitable employment. BEM 233A, p. 3. Department policy defines "refusing suitable employment" to include being fired for misconduct or absenteeism (not for incompetence). BEM 233A, p. 3.

In this case, Claimant testified that she was fired from her employment at [REDACTED] because of absenteeism. Therefore, Claimant was noncompliant with PATH.

Before terminating a client from the work participation program and closing her FIP case the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. A triage was scheduled in this case on February 6, 2014. Claimant attended the triage, but the Department concluded that her explanation for her noncompliance, that she had difficulties getting to work on time, failed to provide good cause for her noncompliance.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities based on factors beyond the control of the noncompliant person. BEM 233A, p. 4. Lack of transportation can establish good cause for noncompliance when the client requested transportation services from the Department, PATH or other

employment services provider prior to case closure and reasonably priced transportation is not available to the client. BEM 233A, p. 6.

At the hearing, Claimant explained that she had to take two buses to get to her job and that she was sometimes late. She also testified that, because there was no bus service on Sunday, she had to arrange to change Sunday shifts with other coworkers and her employer would not accommodate her request to not schedule her on Sundays. Claimant admitted that, because she had received bus tickets from her worker, she did not advise the Department or PATH of her transportation issues, believing that there was no other assistance available. However, because the Department was not afforded the opportunity to determine whether other reasonably priced transportation options were available, Claimant could not rely on lack of transportation to establish good cause. Furthermore, Claimant admitted that she was late even on the days when bus service was available.

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 case. Because this was Claimant's first occurrence of noncompliance with employment activities, the Department acted in accordance with Department policy when it closed Claimant's FIP case for a three-month minimum. BEM 233A, p. 8.

DECISION AND ORDER

The Department's FIP decision is AFFIRMED.



Alice C. Elkin

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

Date Signed: March 26, 2014

Date Mailed: March 26, 2014

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

ACE/tif

cc:

