

**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.: 14-001788
Issue No.: 1008
Case No.: ██████████
Hearing Date: June 18, 2014
County: WAYNE-DISTRICT 55

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 June 18, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included █████ █████, Family Independence Specialist Case Manager.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case based on a failure to participate in employment 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 an unverified date, Claimant's FIP case closed.
3. On April 21, 2014, 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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

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. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider, failing or refusing to appear for a scheduled appointment or meeting related to assigned activities, and failing or refusing to participate in employment and/or self-sufficiency related activities, among other things. BEM 233A, pp 1-4. 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. BEM 233A, pp. 4-6.

Good cause includes any of the following: the client is employed for 40 hours/week, the client is physically or mentally unfit for the job, the client has a debilitating illness or injury or a spouse or child’s illness or injury requires in-home care by the client, the Department, employment service provider, contractor, agency or employer failed to make a reasonable accommodation for the client’s disability, no child care, no transportation, the employment involves illegal activities, the client experiences discrimination, an unplanned event or factor likely preventing or interfering with employment, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p.1.

In processing a FIP closure, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance; the reason the client was determined to be noncompliant; and the penalty duration. BEM 233A. p.9-11. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (January 2014). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 8-10. A triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp. 8-10. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 13.

Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second

occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

Prior to certifying a case closure for a lifetime sanction, the case and noncooperation history must be reviewed to determine if the lifetime sanction is an appropriate closure. The review team consists of the family independence manager and the PATH coordinator or program manager. The Department needs to review the following: the FAST and FSSP to determine if identified barriers were not addressed, the OSMIS case notes and activities that correspond to Bridges sanction history, case notes in the case file and on Bridges, and that triage results are consistent with corresponding client statements or possible documentations of good cause. BEM 233A, pp. 11-12. The Department is to document in the case file and on the final noncooperation record in Bridges that the lifetimes sanction final review was completed and include in the comments the participants of the final review. This review must be completed within five business days from the date the triage was held. BEM 233A, p.12.

In this case, Claimant was an ongoing recipient of FIP benefits. The Department stated that Claimant was required to submit weekly job search logs as a condition of receiving FIP benefits. The Department testified that because Claimant did not submit her job search logs for the week of March 31, 2014, she was placed in noncompliance with work related activities. The Department stated that on April 15, 2014, it sent Claimant a Notice of Noncompliance informing her that a triage was scheduled for April 21, 2014. The Department failed to present the Notice of Noncompliance for review at the hearing.

A triage was conducted on April 21, 2014, at which Claimant appeared. At the triage, Claimant informed the Department that she could not attend the appointment scheduled for April 11, 2014, during which she was supposed to submit her job search logs because her daughter had a doctor appointment. A review of the case notes establishes that Claimant was instructed to attend a meeting on April 11, 2014, to submit her job search logs and that although it was not prior to the appointment, she did inform the Department afterward that she did not attend because of her daughter's doctor appointment. (Exhibit 1).

The Department determined that Claimant did not have good cause for failing to submit her job search logs and initiated the closure of her FIP case, as well as imposition of a lifetime sanction based on a third occurrence of noncompliance without good cause. (Exhibit 2). The Department testified that it sent Claimant a Notice of Case Action on April 21, 2014, informing her of the case closure. Initially, the Department stated that Claimant's case was to close effective May 30, 2014, however, a review of the Triage Outcome Form indicates that the lifetime sanction is to begin May 1, 2014. (Exhibit 2). The Department failed to present the Notice of Case Action for review at the hearing, so the exact date of the case closure was unverified.

The Department presented a Non-cooperation Summary to establish that Claimant had two prior penalties for noncompliance without good cause, however, the Department did not present any evidence that it followed the case review policy found in BEM 233A,

prior to imposing a lifetime sanction on Claimant's FIP case. BEM 233A, pp. 11-12. (Exhibit 3).

Although the Department provided testimony concerning the facts at issue in Claimant's case, the Department failed to present any documentary evidence to support its testimony. Because, the Notice of Noncompliance and the Notice of Case Action were not presented for review at the hearing, it remained unconfirmed whether the Department properly notified Claimant of the date of noncompliance, the reason for the noncompliance and the penalty duration. BEM 233A, pp.9-11. Additionally, without reviewing the Notice of Case Action, it remained unclear when Claimant's case closure and lifetime penalty was to take effect, as well as the exact reason for the intended action as documented in Bridges. BAM 220.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP case and imposed a lifetime sanction.

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 that was imposed on Claimant's FIP case;
2. Reinstate Claimant's FIP case effective the date of closure;
3. Issue supplements to Claimant for any FIP benefits that she was entitled to receive but did not from the date of closure, ongoing; and
4. Notify Claimant of its decision in writing.



Zainab Baydoun

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

Date Signed: **6/23/2014**

Date Mailed: **6/24/2014**

ZB / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]