

**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.: 14-008668
Issue No(s): 1008;6000
Case No.: ██████████
Hearing Date: September 10, 2014
County: Wayne (15)

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 September 10, 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.

ISSUES

Did the Department properly process Claimant's Child Development and Care (CDC) benefits?

Did the Department properly close Claimant's Family Independence Program (FIP) case 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 CDC benefits.
2. On May 7, 2014, Claimant submitted an application for FIP benefits.
3. Claimant's application was approved and she began receiving FIP benefits.

4. On July 29, 2014, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on August 5, 2014, to discuss whether good cause existed for her refusing employment on May 1, 2014. (Exhibit A)
5. On July 29, 2014, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits and impose a six month FIP sanction effective September 1, 2014, based on a failure to participate in employment and/or self-sufficiency-related activities without good cause for a second time. (Exhibit C)
6. On August 5, 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).

CDC

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The hearing was requested to dispute the Department's action taken with respect to Claimant's CDC benefits. Shortly after commencement of the hearing, Claimant testified that she now understood the actions taken by the Department and that she did not wish to proceed with the hearing with respect to her CDC benefits, as she had an active case with no current problems. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request.

FIP

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 refusing suitable employment. 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. 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. pp. 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.

In this case, Claimant was terminated from her employment on May 1, 2014. On May 7, 2014, Claimant submitted an application for FIP benefits that was approved by the Department and Claimant began receiving FIP benefits. The Department testified that because Claimant was terminated from her employment on May 1, 2014, she was placed in noncompliance with work-related activities. The Department stated that on July 29, 2014, it sent Claimant a Notice of Noncompliance informing her that she was required to attend a triage meeting on August 5, 2014, to discuss whether she had good cause for refusing suitable employment prior to applying for FIP benefits. (Exhibit A).

A triage was conducted on August 5, 2014, at which Claimant appeared. The Department concluded that Claimant did not have good cause for being terminated from her employment on May 1, 2014, and initiated the closure of her FIP case, effective September 1, 2014, imposing a six month sanction for the second occurrence of noncompliance without good cause. (Exhibits B and C).

At the hearing, Claimant testified and the Department confirmed at the time of application, Claimant informed the Department that she had been terminated from her job on May 1, 2014, one week prior to her application date. According to BEM 233A, a WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending, must have benefits delayed. The Department is to approve FIP benefits no earlier than the pay period following the pay

period containing the 30th day after the refusal of employment. A good cause determination is not required for applicants who are noncompliant prior to the FIP case opening. BEM 233A, p. 7. The Department acknowledged that the FIP case closure was improper and that the six month sanction should not have been imposed.

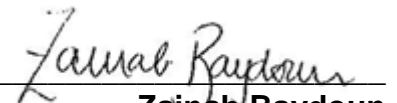
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's Family Independence Program (FIP) case due to a failure to participate in employment and/or self-sufficiency-related activities without good cause.

DECISION AND ORDER

Accordingly, the hearing request with respect to CDC is DISMISSED and the Department's FIP 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 September 1, 2014;
3. Issue FIP supplements to Claimant from September 1, 2014, 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: September 17, 2014

Date Mailed: September 17, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

ZB/cl

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