

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-009203
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: September 18, 2014
County: Kent County DHS

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 18, 2014, from Lansing, Michigan. Participants on behalf of Claimant included herself. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator [REDACTED] and FIM [REDACTED]

ISSUE

Did the Department properly apply a third, lifetime sanction on Claimant's Family Independence Program for failure to participate in self-sufficiency-related activities?

FINDINGS OF FACT

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

1. CI was an ongoing recipient of Family Independence Program benefits.
2. On June 17, 2014, Claimant signed Family Self-Sufficiency Plan Personal Contract agreeing to participate in counseling or volunteer work for 1 hour per week.
3. Claimant did not submit an activity log for the week ending July 7, 2014.
4. On July 22, 2014, Claimant was sent a Notice of Noncompliance (DHS-2444) which scheduled a meeting on July 30, 2014. Claimant was also sent a Notice of Case Action (DHS-1605) which stated her Family Independence Program would close September 1, 2014.
5. On July 30, 2014, at 2:00 pm, Claimant participated in the scheduled meeting. The Department determined there was no good cause for Claimant's noncompliance.

6. On July 30, 2014, at 3:44 pm, Claimant faxed in the weekly activity log for the week ending July 11, 2014.
7. On August 4, 2014, Claimant submitted a hearing request.

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.

During this hearing Claimant testified that on June 30, 2014, she did an online application for volunteer work at Streams of Hope. Claimant also testified that on July 2, 2014 she tried to telephone Streams of Hope to follow up on the volunteer application but no one answered so she left a message.

The record contains case comments from the DHS case worker who held the July 30, 2014 meeting with Claimant. The case worker recorded that Claimant stated she (Claimant) had not done any activity for the week because it was the week of the 4th of July. The statement of the case worker is hearsay within hearsay and cannot be used as the basis of a decision in this case because the hearsay exception for records of regularly conducted activity does not extend to the hearsay statement of Claimant. This short explanation of why the statement cannot be used is provided to show that the evidence was not ignored or disregarded. However, a full explanation of this evidentiary issue is omitted for two reasons. First is the length of verbiage it would require. Second, most persons who are not well versed in the legal subject of evidence, frequently misunderstand hearsay or fail to see the distinction between the admissible hearsay and the inadmissible hearsay.

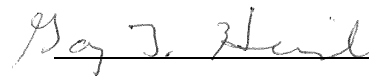
With regard to Claimant's activity during the week at issue, the only competent evidence in this record is Claimant's testimony. Based on the totality of the evidence in the record, Claimant's testimony on this issue is found credible. The Administrative Law Judge, based on the above Findings of Fact 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 applied a third, lifetime sanction on Claimant's Family Independence Program for failure to participate in self-sufficiency-related activities.

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. Reinstate Claimant's Family Independence Program.
2. Supplement Claimant any benefits she was otherwise eligible for but did not receive due to this incorrect action.



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

Date Signed: **10/2/2014**

Date Mailed: **10/2/2014**

GFH / hj

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:

