

**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.: 14-012205
Issue No.: 1008, 6001
Case No.: ██████████
Hearing Date: January 29, 2015
County: Wayne-District 35

ADMINISTRATIVE LAW JUDGE: Alice 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, an in-person hearing was held on January 29, 2015, from Redford, Michigan. Participants on behalf of Claimant included Claimant and ██████████; Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for noncompliance with employment related activities and apply a six-month sanction?

Did the Department properly close Claimant's Child Development and Care (CDC) case?

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 and CDC benefits.
2. As part of her FIP employment-related activities, Claimant was required to submit a weekly job search log.
3. On September 12, 2014, the Department sent Claimant a Notice of Noncompliance notifying her that she was in noncompliance with her employment-related activities and scheduling a triage on September 18, 2014.

4. Claimant attended the triage and admitted she falsified her job search logs.
5. The Department found no good cause for Claimant's noncompliance and prepared to close her FIP case for a six-month minimum based on a finding that this noncompliance was Claimant's second.
6. On September 1, 2014, Claimant filed a request for hearing disputing the Department's actions concerning her FIP and CDC cases.

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).

Claimant requested a hearing concerning the closure of her FIP and CDC cases.

CDC Case

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.

At the hearing, Claimant contended that the Department improperly closed her CDC case. Although Claimant was receiving CDC benefits, in part, due to her participation in FIP related employment activities, she testified that she also needed CDC benefits in order to continue to attend school. Because the Department did not present any evidence concerning Claimant's CDC case, it failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the CDC case.

FIP Case

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 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 in noncompliance with her FIP obligations if she fails or refuses, without good cause, to participate in any required activities. BEM 233A, p. 2. 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. In this case, Claimant attended the triage. The Department concluded, based on Claimant's admission at the triage that she had falsified job search logs, that she did not have good cause for her noncompliance.

At the hearing, Claimant testified that, as part of her PATH activities, she was required to complete and submit weekly job log. She explained that she was having issues coordinating visits with her [REDACTED] old son, who was in foster care at the time, and consequently falsified her job search log.

A noncompliance is excused if a client can establish good cause for the noncompliance. BEM 233A, p. 4. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities based on factors that are beyond the control of the noncompliant person. BEM 233A, p. 4. In this case, Claimant's circumstances did not justify falsification of the job search log. Further, falsification of the job search log was not a circumstance beyond her control. As such, Claimant failed to establish good cause for her noncompliance. Therefore, the Department acted in accordance with Department policy when it concluded that Claimant was in noncompliance with employment-related activities. While the Department failed to establish that it sent Claimant a Notice of Case Action concerning her case closure, by participating in the triage, Claimant became aware of the Department's position and was notified that the Department intended to close her FIP case. Furthermore, in this case, Claimant was not denied the opportunity to request a hearing concerning the Department's actions.

However, while the Department established that Claimant's FIP case should properly close, it failed to satisfy its burden of showing that it acted in accordance with Department policy when it applied a six-month sanction. When a client is noncompliant with FIP-related employment activities, the penalty is FIP case closure for not less than three calendar months for the first occurrence of noncompliance, not less than six months for the second occurrence of noncompliance, and a lifetime sanction for the third occurrence of noncompliance. BEM 233A, p. 8.

In this case, in its hearing summary, the Department indicated that Claimant's FIP case would close for six months for a second noncompliance. However, the Department did not present any evidence that Claimant was subject to a prior noncompliance, and Claimant denied any prior FIP case closure due to noncompliance.

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 but failed to satisfy its burden of showing that it acted in accordance with Department policy when it applied a six-month sanction to Claimant's FIP case and when it closed her CDC case.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to closure of Claimant's FIP case and **REVERSED IN PART** with respect to (i) application of a six-month sanction to Claimant's FIP case closure and (ii) closure of Claimant's CDC case.

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 CDC case effective September 2014;
2. Issue supplements to Claimant for any CDC benefits she was eligible to receive but did not from September 2014 ongoing based on need for school attendance; and
3. Remove any 6-month sanction applied to Claimant's FIP case and replace with a 3-month sanction.



Alice Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/6/2015**

Date Mailed: **2/6/2015**

ACE / 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 48909-8139

CC:

[REDACTED]