

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-16134
Issue No(s): 1007
Case No.: [REDACTED]
Hearing Date: January 14, 2014
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 January 14, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Case Manager [REDACTED], and Michigan Works Agency Employment Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP – Cash Assistance) benefits and impose a second penalty for non-compliance with FIP?

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 on-going FIP recipient.
2. Claimant was previously sanctioned with the loss of her FIP for three months (May 1, 2013 through July 31, 2013) because of non-compliance.
3. Claimant reported on November 5, 2013 that she was no longer working at a temporary work assignment through [REDACTED].
4. Claimant was instructed to appear at the Department on November 8, 2013 to sign a participation plan and submit proof that she had engaged in 24 hours of work search.
5. Claimant did not appear for the November 8 appointment.
6. A notice of non-compliance was mailed to Claimant on November 12 because of her absence on November 8.

7. On November 18, 2013 Claimant signed a Work and Self-Sufficiency Rules form acknowledging what was expected of her as she received FIP.
8. A triage appointment was scheduled for Claimant at 9:00 a.m. on December 2, 2012.
9. Claimant did not attend the triage appointment.
10. On December 2, 2013, the Department concluded Claimant was in non-compliance with her responsibilities for continuing her FIP.
11. On December 3, 2013, 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, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MC L 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

As stated in BEM 233A,

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

If a client does not comply with self-sufficiency activities or work, they can be penalized:

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:

- Appear and participate with PATH or other employment service provider.

* * *

- Provide legitimate documentation of work participation.
- Appear for a scheduled appointment or meeting related to assigned activities.
- Participate in employment and/or self-sufficiency-related activities.
- Participate in required activity.

If a client does not comply, they can avoid penalties by showing they had good cause for non-compliance.

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. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination in Bridges and the FSSP under the Participation and Compliance tab.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral.

BEM 233A lists a number of examples of good cause, but none of them are arguably applicable here. The Claimant explained that she did not attend the November 8 meeting with the Michigan Works Agency because she did not have documentation that she had spent 24 hours searching for work. Once the Claimant lost her job with Workforce Solutions, she did very little to maintain contact with MWA or the Department. The only actions she took was to sign the Work and/or Self-Sufficiency Rules for Cash Recipients (Exhibit 1 Page 5) on November 18, 2013, and submit a hearing request (Exhibit 1 Page 4) on December 2, 2013. She did not participate as required in multiple duties, and she did not establish good cause for her non-compliance.

The penalties for non-compliance are found at page 1 of BEM 233A:

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance.

Because the Claimant was subject to a sanction previously, she was properly subject to the sanction imposed for a second episode of non-compliance.

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 and imposed a six month sanction for her second episode of non-compliance..

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 15, 2014

Date Mailed: January 15, 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

DTSJ/las

cc:

