

4. On November 26, 2013, the Department sent Claimant a Notice of Case Action informing her that effective January 1, 2014, her FIP case would be closing and a three month sanction imposed, based on a failure to participate in employment related activities without good cause. (Exhibit 2)
5. On December 3, 2013, 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, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a 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 (July 2013), p. 10. 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, the MRT determined that Claimant was not disabled and that she could participate in work related activities with limitations. As a condition of receiving FIP benefits, Claimant was required to submit job search logs totaling 30 hours weekly to the Department and accept employment, if offered to her. The Department testified that because Claimant refused offers of employment and was short on hours for one week of job search, it sent Claimant a Notice of Noncompliance informing her that she was required to attend a triage meeting on December 3, 2013, to discuss whether or not she had good cause for her failure refusing employment.

A triage was conducted on December 3, 2013, which Claimant attended. (Exhibit 3). At the triage, the Department concluded that Claimant did not have good cause for her failure to cooperate with employment related activities, and initiated the closure of her FIP case, effective January 1, 2014.

At the hearing, Claimant testified that she was never offered employment for jobs that she would be able to perform. Claimant stated that the Department did not present to her any offers of employment and that she was never notified that employment was available to her. The Department failed to present any documentation to support its testimony that Claimant was offered employment and did not provide evidence concerning when the employment offers were given and where Claimant was offered employment. Claimant further testified that she completed job search and timely submitted her logs to the Department but that because she is on several medications, she is sometimes limited in what she can do.

Additionally, a review of the job search logs submitted reveals that for the week in which the Department stated Claimant was short on her hours of participation (October 27, 2013 through November 2, 2013), Claimant submitted activity logs for her participation at Payne Pulliam for 29 hours and Outside Job Search contact logs totaling 10 hours. (Exhibit 6).

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 determined that Claimant did not have good cause for her failure to participate in employment related activities, closed Claimant's FIP case and imposed a three month 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 January 1, 2014;
3. Issue supplements to Claimant for any FIP benefits that she was entitled to receive but did not from January 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: March 25, 2014

Date Mailed: March 26, 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

ZB/tm

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