

**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.: 2014-28936
Issue No(s): 1008
Case No.: ██████████
Hearing Date: March 20, 2014
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 March 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Worker; ██████████, Family Independence Manager; and ██████████ ██████████ ROSS IES.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for noncompliance with employment and/or 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. Claimant was an ongoing FIP recipient who participated in the PATH program.
2. Claimant was not scheduled to appear for a PATH appointment on December 31, 2013 but accompanied her sister who was scheduled to appear that day.
3. Claimant was not dressed in business attire and was asked to leave by her PATH worker.
4. Claimant and the PATH worker became involved in a verbal altercation in which Claimant used profanity.

5. Claimant was asked to leave when it was determined by the Department that her behavior was disruptive.
6. On January 3, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FIP case would close effective February 1, 2014 for failure to participate in employment related activities and that a three month sanction would be imposed.
7. Also on January 3, 2014, the Department sent Claimant a Notice of Noncompliance scheduling a triage.
8. On January 24, 2014, Claimant appeared for the triage and admitted to using profanity but stated that she was provoked by her worker.
9. Following the triage, the Department determined that Claimant did not have good cause for her disruptive behavior.
10. On February 20, 2014, Claimant filed a request for hearing 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.

The Department 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. BEM 223A (December 2013), p. 1.

A Work Eligible Individual (WEI) and a non-WEI 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. *Id.*

In this case, Claimant's sister was scheduled to appear for her PATH appointment on December 31, 2013. Claimant accompanied her sister to the appointment. Claimant was not dressed in business attire. The Department testified and Claimant was aware that clients are required to make contact with their case managers prior to proceeding to the job bank area. Because this was not Claimant's scheduled appointment date, she did not believe she was required to dress in business attire or contact her case manager prior to utilizing the job bank.

Upon entering the job bank area, Claimant was met by her PATH worker. Claimant was told that she could not remain in the job bank area because she was not dressed in business attire. Claimant took exception to the way she was asked to leave. As a result, Claimant and her PATH worker engaged in a verbal altercation. Both Claimant and the PATH worker were speaking with raised voices. The verbal altercation caused a disruption in the office. Claimant indicated that her worker was getting on her "damn nerves" and referred to her PATH worker in a profane, derogatory manner. Claimant was aware that profanity was not allowed but did not believe she violated the policy because she spelled the highly offensive word and did not actually say the word. Claimant also stated that she used the term in a conversation with her sister, not directed at the PATH worker.

As a condition of eligibility, individuals must work or engage in employment and/or self-sufficiency-related activities. An individual is considered to be in noncompliance if they are threatening, physically abusive or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity. BEM 233A, pp. 1-2. Claimant clearly behaved in a disruptive manner when she arrived at the PATH location inappropriately dressed and then used prohibited language which is found to have been directed towards her PATH worker.

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 and imposed a three month sanction.

DECISION AND ORDER

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



JACQUELYN A. MCCLINTON
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 27, 2014

Date Mailed: March 27, 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

JAM/cl

CC:

[REDACTED]
[REDACTED]
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