

**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.: 15-000849
Issue No.: 1001
Case No.: ██████████
Hearing Date: March 16, 2015
County: Wayne-District 19 (Inkster)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included her husband, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearings Facilitator and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) 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 benefits.
2. On October 29, 2014, the Department sent Claimant a FAST Mandatory Notice instructing her to complete the FAST within 30 days and the FSSP within 90 days of the notice. (Exhibit A)
3. On November 29, 2014, the Department sent Claimant a Notice of Noncompliance informing her that on November 28, 2014, the Department determined that Claimant was noncompliant with work related activities because she failed to complete the FSSP. (Exhibit C)

4. The Notice of Noncompliance instructed Claimant to attend a triage meeting on December 5, 2014, to discuss whether there was good cause for her noncompliance and informed her that because this was the first occurrence of noncompliance, a three month penalty/sanction would be applied to her FIP case. (Exhibit C)
5. Claimant's FIP case closed effective January 1, 2015. (Exhibit D)
6. On January 12, 2015, 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, 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.

Additionally, as a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities. BEM 233A (October 2014), pp. 1-2. The WEI can be considered noncompliant for several reasons including failing or refusing to complete a FAST or develop a FSSP. BEM 233A, p. 2. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized and generally, 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, pp.1, 8. Noncompliance based on failure to complete a FAST within 30 days or FSSP within 90 days however, results in a case closure due to failure to provide requested verifications. BEM 233A, p. 3. The Department is not to apply the three month, six month, or lifetime penalty and the client can reapply at any time. BEM 228 (July 2013), p. 21; BEM 233A, p.3.

In this case, the Department testified that Claimant was found to be in noncompliance with work related activities because she failed to complete the FAST within 30 days of the FAST Mandatory Notice. The Department stated that on November 29, 2014, it sent Claimant a Notice of Noncompliance instructing her to attend a triage on December 5, 2014, to discuss whether good cause existed for the failure to complete the FAST. The Department stated that Claimant failed to attend the triage and that it was determined

that Claimant did not have good cause for the noncompliance. The Department testified that Claimant's FIP case closed effective January 1, 2015, and a three month sanction was imposed for the first occurrence of noncompliance. The Department failed to present a Notice of Case Action for review at the hearing, however, so the exact reason for the case closure was not confirmed.

At the hearing, Claimant's husband testified that he misunderstood the FAST Notice and that he thought he had 90 days to complete the FAST. The evidence presented established that Claimant completed the FAST on January 9, 2015, which was within the 90 day time period that Claimant's husband testified that he thought he had. Claimant's husband stated that he emailed his case worker a few days prior to the triage and requested to participate via telephone; however, no one contacted him for the triage. The email was read into the hearing record.

Although the Department stated that Claimant was found to be noncompliant based on a failure to complete the FAST, a review of the Notice of Noncompliance that was sent to Claimant establishes that as of November 28, 2014, the Department determined that Claimant was noncompliant with work related activities because she failed to complete the FSSP, and not the FAST as the Department testified to at the hearing. (Exhibit C). There was no evidence presented at the hearing that Claimant failed to complete the FSSP within the 90 days required and at the time the Notice of Noncompliance was sent to the Claimant, the 90 day time period given to Claimant to complete the FSSP had not yet ended. Therefore, the Department did not establish that Claimant was noncompliant with employment related activities based on a failure to complete the FSSP as indicated on the Notice of Noncompliance. Furthermore, the Department did not act properly when it closed Claimant's FIP case based on noncooperation with employment related activities and imposed a three month sanction, rather than closing the case based on a failure to verify and allowing the client to reapply.

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 closed Claimant's FIP case effective January 1, 2015, and imposed a three month penalty.

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/penalty that was imposed on Claimant's FIP case;
2. Reinstate Claimant's FIP case effective the date of closure, January 1, 2015;
3. Issue FIP supplements to Claimant from January 1, 2015, ongoing; and
4. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/31/2015**

Date Mailed: **3/31/2015**

ZB / 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]
[REDACTED]
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