

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004342
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: April 30, 2015
County: Marquette

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 30, 2015, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Health and Human Services (Department) included Family Independence Specialist [REDACTED] and PATH Coordinator [REDACTED].

ISSUE

Did the Department properly sanction Claimant for being fired from her job while receiving Family Independence Program benefits?

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 a FIP recipient.
2. On February 13, 2015, Claimant notified the Department that she had lost her job.
3. The Department mailed Claimant a Verification Checklist on February 13, 2015, requesting verification of employment.
4. On March 2, 2015, the Department received the Verification of Employment indicating Claimant had been fired from her job.
5. The Department contacted Claimant's employer and was informed Claimant had been fired because Claimant was insubordinate – she made a derogatory comment about her boss to another employer.

6. On March 12, 2015, the Department mailed Claimant a Quick Note informing Claimant the decision had been made to impose a cash sanction on her case and her FIP program would be closed from March 1, 2015, through May 31, 2015.
7. On March 19, 2015, the Department received Claimant's Request for Hearing contesting the Department's negative action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) 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-.3131.

In this case, Claimant was reportedly fired for being insubordinate and was sanctioned by the Department based on a co-worker reporting to the employer that Claimant made a negative comment about the employer. Insubordination is a refusal to obey some order which a superior officer is entitled to give and have obeyed. That was not what happened in this case.

Here, Claimant's employer fired her based not on Claimant being insubordinate to the employer, but based on a coworker stating Claimant had made a derogatory remark about the employer. There is no evidence Claimant in fact made a derogatory remark to the coworker or that the alleged remark was derogatory toward the employer. Moreover, there is no evidence Claimant was insubordinate to her employer.

Therefore, the Department failed to present the necessary evidence to establish the Department's case. The Department was unable to meet its burden of going forward and establishing that Respondent was noncompliant with the FIP program.

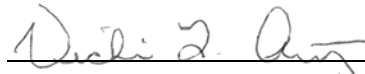
As the Department failed to establish their case, this request for hearing is **DISMISSED** with prejudice.

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. Reinstate FIP benefits back to the date of FIP closure and issue Claimant any retroactive FIP benefits she may otherwise be entitled to.
2. Delete the FIP sanction from Claimant's FIP history.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/1/2015**

Date Mailed: **5/1/2015**

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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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

