

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-36951

Issue No: 3008; 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 12, 2009

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on November 12, 2009. Claimant appeared and testified. Dia Proctor, ES, and Donna Rojas, FIM, appeared on behalf of the department.

ISSUES

1. Did the Department of Human Services (department) properly close claimant's Food Assistance Program (FAP) benefits for failure to provide updated information?
2. Did the Department properly close claimant's Family Independence Program (FIP) benefits for noncompliance with work-related-activities?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) Claimant was an ongoing recipient of FAP benefits in a household of four persons.

(2) Claimant also had an active FIP case, although she was not receiving a monthly cash assistance benefit due to the amount of her wages.

(3) At the end of May 2009, claimant moved from [REDACTED] address and reported a new mailing address to the department.

(4) On July 1, 2009, the department issued a Semi-Annual Contact report to claimant at the [REDACTED] address that needed to be completed and returned by August 1, 2009 regarding the FAP benefit case. (Department Exhibit 2, pgs. 10-11)

(5) Between June 22, 2009 and August 12, 2009, the department issued additional correspondence sent to claimant at the [REDACTED] address including Verification Checklists, Notice of Noncompliance for the FIP case, a Notice of Case Action for the FIP case, and Notice of Potential FAP closure. (Department Exhibit 1, pgs. 2-3, 7-9, and 12-13)

(6) Correspondence sent to claimant at the [REDACTED] address was returned to the department by the U.S. Postal Service as undeliverable, unable to forward. (Department Exhibit 1, pgs. 1-5)

(7) On July 25, 2009, claimant testified she filed a new application for FIP benefits which also included the new mailing address.

(8) The department has no record of receiving a July 25, 2009 FIP application form claimant.

(9) The department closed the FIP case on July 31, 2009 and the FAP case on August 31, 2009.

(10) Claimant filed a hearing request to contest the FIP and FAP determinations on September 14, 2009.

CONCLUSIONS OF LAW

FAP

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Under BAM 105, clients must cooperate with the local office in determining initial and ongoing eligibility. The department is to request verification when required by policy, when required by local office option, or when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130. The department is to allow at least 10 days to provide the verification requested. BAM 105. A negative action notice is to be sent when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130. The department must also help clients who need and request assistance in obtaining verifications, and may extend the time limit, if necessary. BAM 130. Clients must also report changes of address to the department within 10 days. BAM 105.

The department must periodically re-determine an individual's eligibility for active benefits. BEM 210. The redetermination process includes thorough review of all eligibility factors. Redetermination, Semi-Annual and Mid-Certification forms are often used to re-determine eligibility of active benefits. BAM 210.

In the present case, the department issued a Notice of Potential FAP closure to claimant on August 12, 2009 indicating that the FAP benefits would close effective August 31, 2009 because the Semi Annual Contact Report or other required information had not been returned. (Department Exhibit 2, pg. 9) The Semi Annual Contact Report was mailed on July 1, 2009 with a due date of August 1, 2009. (Department Exhibit 2, pgs. 10-11) A Verification Checklist was also issued on July 15, 2009 for claimant to contact the department regarding her FAP case by July 27, 2009. (Department Exhibit 2, pg. 12) All of these documents were mailed to claimant at the [REDACTED] address. (Department Exhibit 2, pgs. 9-12)

However, claimant testified that she moved from the [REDACTED] address at the end of May 2009 after the department denied a State Emergency Relief (SER) application for rent assistance. Claimant testified that she called one of her caseworkers, Emily Shadley, and reported a new mailing address to the department in May 2009. Ms. Shadley was not present at the hearing to dispute claimant's testimony. However, the department's testimony does indicate that Ms. Shadley was one of claimant's caseworkers at that time.

Claimant also testified that she provided the current mailing address to the department on July 25, 2009 when she filed a new FIP application with the department. The department has no record of this application being filed. However, the department also testified there is no log for clients to sign when they leave new applications or other documentation in the department's drop box.

Based upon the foregoing facts and relevant law, it is found that the department did not send the Semi Annual Contact Report and other correspondence to claimant's correct address. Claimant provided credible testimony that she provided a current mailing address to the department in May 2009 when she moved. The Semi Annual Contact Report, Verification Checklist, and Notice of Potential FAP Closure were mailed to the [REDACTED] address in July and

August 2009. (Department Exhibit 2 pgs. 9-12) Accordingly, the department shall reinstate the FAP benefits retroactive to the August 31, 2009 closure.

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manuals.

The Family Independence Program (FIP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and State laws require each work eligible individual (WEI) in the FIP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. BEM 230A.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. BEM 230 A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. BEM Manual Item 233(a). The penalty for the first occurrence of noncompliance in the JET

program is a closure for a minimum of three calendar months under the FIP program. BEM Manual Item 233(a). If a customer is found in noncompliance with FIP when they are also a recipient of FAP, their FAP case will also be penalized for a minimum of three months under the JET program. BEM Manual Item 233(b); 42 USC 607. Good cause is a valid reason for noncompliance with employment related activities. A claim of good cause must be verified and documented for applicants, members, and recipients. BEM Manual Item 230(a), BEM Manual Item 230(b); 7 CFR Parts 272 and 273.

In the present case, claimant's FIP benefits were closed for noncompliance with work-related activities. (Department Exhibit 2, pgs. 7-8) Claimant testified that she was working at a temporary job that ended in May 2009. June 8, 2009 and June 11, 2009 Work First case notes indicate that the employer was not cooperative in verifying when the employment ended so a triage meeting was requested. (Department Exhibit 2, pg. 4)

On June 22, 2009, the department issued a Notice of Noncompliance to claimant notifying her that a triage meeting was scheduled for July 9, 2009 to discuss the alleged noncompliance with work-related activities. However, this notice was also sent to claimant at the [REDACTED] address. (Department Exhibit 2, pg. 2)

When claimant did not appear for the June 8, 2009 triage meeting, the department did not find good cause for the noncompliance and proceeded with a closure of the FIP case. The July 9, 2009 Notice of Case Action notifying claimant of the FIP benefit closure was also mailed to the [REDACTED] Address. (Department Exhibit 2, pgs. 7-8) As noted above, claimant provided credible testimony that she notified the department of her move and provided a mailing address at the end of May 2009. Claimant also testified that she also spoke with her department case worker about the temporary job ending in May 2009.

Based upon the foregoing facts and relevant law, it is found that the department did not mail the Notice of Noncompliance and Notice of Case Action to claimant's correct mailing address. Accordingly, claimant was not given notice of the alleged noncompliance with work-related activities, the date and time of the triage meeting, or the proposed action on the FIP case. Therefore, the department shall reinstate the FIP case retroactive to the August 1, 2009 closure.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides:

(1) The department did not send the July 1, 2009 Semi Annual Contact Report and subsequent correspondence regarding the FAP to claimant's correct mailing address.

Accordingly the department's FAP determination is REVERSED. Therefore, it is ORDERED that the department reinstate claimant's FAP benefits retroactive to the August 31, 2009 closure, awarding benefits to claimant, if appropriate, in accordance with this decision.

(2) The department did not mail the Notice of Noncompliance and Notice of Case Action to claimant's correct mailing address.

Accordingly, the department's FIP determination is REVERSED. Therefore, it is ORDERED that the department reinstate claimant's FIP case retroactive to the August 1, 2009 closure.

Colleen Lack

Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 4, 2009

Date Mailed: December 7, 2009

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

CL/cv

cc:

