

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-11339
Issue No.: 1005,1038,3029
Case No.: [REDACTED]
Hearing Date: March 18, 2013
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Monday, March 18, 2013. The Claimant appeared and testified. Participants on behalf of the Department of Human Services ("Department") included [REDACTED]

ISSUE

Did the Department properly close Claimant's cash assistance (FIP) case and reduce his food assistance (FAP) benefits due to a failure to participate in 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 recipient of FIP and FAP benefits.
2. On July 18, 2012, Claimant attended a Re-engagement meeting where he signed a Compliance letter stating that he would submit to the Department the required completed documentation in person on a weekly basis. (Exhibit 1)

3. On November 1, 2012, the Department sent Claimant a Notice of Noncompliance instructing him to attend an appointment on November 9, 2012 to discuss whether good cause existed for the noncompliance. (Exhibit 2)
4. On November 1, 2012, the Department sent Claimant a Notice of Case Action informing him that the Department intended to terminate his FIP benefits and reduce his FAP benefits effective December 1, 2012 for failure to participate in employment and/or self sufficiency-related activities. (Exhibit 3)
5. Claimant appeared at a triage meeting held on November 9, 2012 at which the Department determined no good cause was established for Claimant's noncompliance.
6. Claimant's FIP case closed effective December 1, 2012 for failure to participate in employment and/or self sufficiency-related activities and a three month penalty was imposed.
7. Claimant's FAP benefits were reduced effective December 1, 2012 for failure to participate in employment and/or self sufficiency-related activities.
8. On November 13, 2012, the Department received the Claimant's request for a hearing disputing the closure of his FIP case and the reduction of his FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

Additionally, as a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities. BEM 233A (November 1, 2012), 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. BEM 233A, pp 1, 2. 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. 3, 4. Good cause includes any of the following: employment for 40 hours/ week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, p. 4. A WEI, and non-WEIs 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.8-9. Pursuant to BAM 220, a Notice of Case Action must also be sent and provides the reason(s) for the action. BAM 220 (November 1, 2012), p. 9. 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, p. 7. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 7. Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 8. 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. 6.

In this case, Claimant was an ongoing recipient of FIP benefits. As a condition of receiving FIP benefits, Claimant was required to submit to the Department, documentation of his Vocational Educational Training which included education logs that were to be verified and signed by Claimant's Professors. Claimant was also required to submit job search logs. The Department testified that due to Claimant's noncompliance with providing logs in a timely manner, a Re-engagement Meeting was held on July 18, 2012 at which Claimant appeared. At the Re-engagement Meeting, Claimant signed a Compliance letter stating that he agreed to submit completed documentation of his educational and job search logs in person on a weekly basis beginning July 18, 2012. The Department testified that between July 18, 2012 and October 26, 2012, Claimant appeared at the Department in person and presented his documentation only eight times, some of which documents were incomplete. At the hearing, the Department presented emails that were sent to Claimant informing him that he had failed to submit proper documentation in person as required and that he was not meeting his weekly hourly requirement. (Exhibit 4)

Due to Claimant's sporadic and incomplete documentation of his education and job search logs, on November 1, 2012 the Department sent Claimant a Notice of Noncompliance instructing him to attend an appointment on November 9, 2012 to

discuss whether good cause existed for the noncompliance. (Exhibit 2). On November 1, 2012, the Department also sent Claimant a Notice of Case Action informing him that the Department intended to terminate his FIP benefits and reduce his FAP benefits effective December 1, 2012 for failure to participate in employment and/or self-sufficiency-related activities (Exhibit 3). Claimant attended a triage meeting held on November 9, 2012 to discuss his case. At the triage meeting, Claimant informed the Department that the reasons for his noncompliance were due to his pending bankruptcy case, his school schedule and that he had to take care of his sick wife and child. Ultimately, the Department determined that Claimant did not have good cause for his noncompliance and terminated his FIP benefits effective December 1, 2012. A three-month penalty was imposed.

At the hearing, Claimant testified that he submitted documents to the Department at the triage meeting regarding his pending bankruptcy case and proof that he was being forced to leave his home as reasons for his inability to appear in person weekly to submit the required documentation. During this time, Claimant continued to attend school and look for a job. Claimant stated that although he was aware that he was required to submit education logs and job search logs in person on a weekly basis, he did not do so each week. Claimant further testified that he informed the Department through phone calls and emails of his inability to provide documentation in person weekly and that he sometimes faxed the documents to the Department, however, no one from the Department could recall being contacted by Claimant. Claimant was aware that the education logs had to be signed and verified by his Professors but testified that he had difficulty with his Professors signing and verifying his logs in a timely manner. Claimant provided documentation of emails from him to his Professor giving the Professor permission to provide the Department with information relating to his class hours, lab, clinic and study hours; however, these emails were sent in May 2012, before the July 18, 2012 Re-engagement meeting. (Exhibit A). Although Claimant provided reasons for his inability to comply with the requirement that he submit his documents in person on a weekly basis, none of them fall within what is considered to be good cause under BEM 233A. As such, the Department properly terminated FIP benefits based on the noncompliance with employment and/or self-sufficiency-related required activities without good cause. Accordingly, the Department's actions are AFFIRMED.

Additionally, noncompliance without good cause with employment requirements for FIP may affect FAP if both programs were active on the date of FIP non-compliance. BEM 233B (November 1, 2012), p. 1. An individual is disqualified from a FAP group for noncompliance when the client had active FIP and FAP benefits on the date of the FIP noncompliance; the client did not comply with the FIP employment requirements; the client is subject to penalty on the FIP program; the client is not deferred from FAP work requirements; and the client did not have good cause for the noncompliance. BEM 233B, p. 2.

In this case, the Department terminated Claimant's FIP benefits based on a reported failure to participate in employment and/or self-sufficiency-related activities without good

cause. Because of this reported failure to participate, the Department disqualified Claimant from his FAP group, thereby reducing Claimant's FAP benefits. As discussed above, the Department acted in accordance with policy when it terminated FIP benefits and imposed a three month penalty for non-participation. As such, the removal of Claimant from the FAP group which resulted in the reduction of FAP benefits is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted in accordance with Department policy when it terminated Claimant's FIP benefits due to noncompliance without good cause; imposed the three month penalty for non-participation; and reduced Claimant's FAP benefits effective December 1, 2012.

Accordingly, it is ORDERED:

1. The Department's termination of FIP benefits is AFFIRMED.
2. The three month penalty is imposed.
3. The reduction of Claimant's FAP benefits effective December 1, 2012 is AFFIRMED.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 26, 2013

Date Mailed: March 26, 2013

NOTICE: 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative Hearings

Re consideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

ZB/cl

cc:

