

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

IN THE MATTER OF:



Reg. No. 2013-24634
Issue No. 1038; 3029
Case No. [REDACTED]
Hearing Date: May 8, 2013
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant to MCL 400.9 and MCL 400.37, which govern the administrative hearing and appeal process. After due notice, a hearing was held on May 8, 2013, in Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's Authorized Hearing Representative, [REDACTED], of [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], FIM.

ISSUE

Whether the Department properly closed Claimant's case for benefits under the Family Independence Program (FIP) and decreased Claimant's Food Assistance Program (FAP) benefits based on Claimant's failure to participate in employment-related activities without good cause.

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, and was required to participate in employment-related activities.
2. On October 5, 2012, the Department issued Claimant a Work Participation Appointment Notice for her to attend an appointment on October 17, 2012. (Exhibit 4)
3. Claimant attempted to reschedule the appointment within 20 days of the notice of October 5, 2012.

4. On October 29, 2012, the Department sent Claimant a Notice of Noncompliance informing Claimant of a failure to participate in employment-related activities and setting a triage date of November 5, 2012. (Exhibit 5)
5. On October 29, 2012, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case and decreasing Claimant's FAP benefits, effective December 1, 2012, due to failure to participate in employment-related activities without good cause. (Exhibit 1)
6. On January 3, 2012, Claimant filed a hearing request disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are found 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 1999 AC, Rule 400.3101 through Rule 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 1999 AC, Rule 400.3001 through Rule 400.3015.

The Department requires Work Eligible Individuals (WEI) seeking FIP to participate in employment and self-sufficiency-related activities. BEM 233A. Failing, without good cause, to participate in employment or self-sufficiency-related activities results in the WEI being penalized. *Id.* Good cause is a valid reason for noncompliance that is based on factors that are beyond the control of the noncompliant person. *Id.*

In the present case, on October 5, 2012, the Department issued a Work Participation Program Appointment Notice, instructing that if Claimant did not call or appear within 20 days of the notice her application would be denied. Claimant testified credibly that she attempted numerous times to get in touch with her worker as soon as she received the Work Participation Program Appointment Notice, but her worker did not return her

phone calls. The Department representative at the hearing testified that Claimant's worker at the time the notice was issued has since retired. In addition, Claimant testified credibly that she received the Notice of Noncompliance on the day of the triage, after the time set for the triage, and she again attempted to contact her worker (now retired) and the worker's phone mail box was full.

It is clear that Claimant made every effort to comply with work-related activities and that she followed the instructions on the Work-Participation Program Appointment Notice. In addition, Claimant was getting conflicting information from her PATH worker, indicating that Claimant was deferred from Work-First. I find that if Claimant did not participate in work-related activities, she had good cause, as the actions of the Department worker not returning Claimant's calls and the Work-First worker giving conflicting information about Claimant being deferred from participation, were beyond Claimant's control.

Based on the above discussion, I find that Claimant participated in employment-related activities, and to the extent she did not participate, Claimant had good cause not to participate in employment-related activities.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly closed Claimant's FIP case. improperly closed Claimant's FIP case and decreased Claimant's FAP benefits.

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 did act properly. did not act properly.

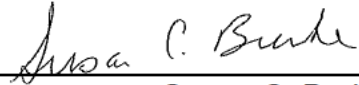
Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT SHALL INITIATE WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER, THE FOLLOWING:

1. Remove the sanction from Claimant's case.
2. Initiate reinstatement of Claimant's FIP case and restoration of Claimant's FAP benefits, effective December 1, 2012, if Claimant is otherwise eligible for FIP and FAP.

2013-24634/SCB

3. Issue FIP and FAP supplements for any payment Claimant was entitled to receive, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 14, 2013

Date Mailed: May 14, 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 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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

SCB/tm

cc:

