

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-29254
Issue Nos.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: June 5, 2013
County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 held on June 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly close Claimant's case for Family Independence Program (FIP) benefits and reduce her Food Assistance Program (FAP) benefits based on a 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 benefits.
2. On January 31, 2013, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she had failed to comply with the work participation program and scheduling a triage on February 7, 2013, and (ii) a Notice of Case Action notifying her of the closure of her FIP case and reduction of her FAP benefits effective March 1, 2013, based on her noncompliance with employment-related activities without good cause.

3. Claimant did not attend the triage.
4. The Department held the triage, concluded that Claimant did not have good cause for her noncompliance, and closed her FIP case and reduced her FAP benefits.
5. On or about February 5, 2013, Claimant filed a request for hearing 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), and Department of Human Services 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.

Although the Department did not provide a copy of the Notice of Case Action with the hearing packet, it testified that it sent Claimant a January 31, 2013, Notice of Case Action notifying her that, effective March 1, 2013, because of noncompliance with employment-related activities, her FIP case would close for a six-month minimum and her FAP benefits would be reduced as a result of her removal as a qualified member of her FAP group.

Closure of FIP Case

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 1, 2013), p. 1; BEM 233A (January 1, 2013), p. 1. A client's failure to attend or participate in a work participation program or other employment service provider or to provide legitimate documentation of work participation constitutes a noncompliance with employment or self-sufficiency-related activities. BEM 233A, pp. 1-2.

In this case, the work participation program consultant testified that Claimant had indicated that she was a full-time student and was asked in July 2012 to have her school complete a form to establish her enrollment and attendance. The consultant testified that Claimant's school attendance could serve as her participation program activity upon verification. When Claimant failed to submit documentation concerning her schooling, the work participation program sent Claimant a November 24, 2012, reengagement letter requiring her to attend a November 29, 2012, appointment. Claimant admitted she did not attend the November 29, 2012, reengagement appointment, alleging she received the notice of the appointment the same day it was scheduled, but she testified that she went to the work participation program on November 30, 2012, and received the school forms for the first time on that date. While Claimant and the consultant's testimony differed concerning when Claimant was asked to provide the school documentation, Claimant testified that she had received the form by November 30, 2012, and that she submitted the completed form to the work participation program within days of receiving it. The work participation program denied receiving any completed form verifying Claimant's school activities. Claimant testified that she had copies of the completed form, but, despite being given the opportunity to provide the documentation after the hearing, failed to do so.

Before terminating a client from the work participation program and closing her FIP case, the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 7. In this case, the Department credibly testified that on January 31, 2013, it sent Claimant both a Notice of Noncompliance and Notice of Case Action. Although Claimant denied receiving the Notice of Noncompliance, she acknowledged receiving the Notice of Case Action. Because both notices were sent the same day, to the same address, in the Department's ordinary course of business, Claimant failed to rebut the presumption that she received the Notice of Noncompliance. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976). The Notice of Noncompliance notified Claimant of the noncompliance and the February 7, 2013, triage. Claimant did not attend the triage. The Department credibly testified that it held the triage and concluded that Claimant had no good cause for her noncompliance. In determining good cause, the Department must consider the best information available during the triage and prior to the negative action date, including any verified information already on file with the Department or the work participation program. BEM 233A, pp. 7-8. Because Claimant failed to establish she provided any documentation concerning her schooling to the work participation program, the Department properly concluded that there was nothing on file to establish any good cause for Claimant's noncompliance. Thus, the Department acted in accordance with Department policy when it closed Claimant's case. Because this was Claimant's second occurrence of noncompliance with employment activities, as verified by Claimant's testimony and the evidence presented by the Department, the Department acted in accordance with Department policy when it closed Claimant's FIP case for a six-month minimum, the sanction applicable to second occurrences of noncompliance. BEM 233A, pp. 1, 6.

Reduction in FAP Benefits

The Department testified that Claimant's FAP benefits were reduced because of her FIP noncompliance. If a client is active FIP and FAP at the time of a FIP noncompliance, the client is disqualified as a member of his FAP group unless there is a finding of FAP good cause. Because Claimant did not (i) meet any of the FIP deferral reasons, (ii) provide good cause for the FIP noncompliance, (iii) care for a child under 6, or (iv) present any evidence showing that she was enrolled in a post-secondary education program and working an average of 30 hours or more per week, she failed to establish any basis to avoid the FAP disqualification penalty. See BEM 230B (January 2013), p 4.

A client is disqualified from her FAP group for a minimum of one month for the first occurrence of a FAP penalty for FIP employment-related noncompliance and for a minimum of six months for the second and subsequent occurrence of a FAP penalty for a FIP employment-related noncompliance, with the disqualification continuing until the client reestablishes FAP eligibility as required under BEM 233B. See BEM 229 (January 2013), p. 5; BEM 233B (January 2013), p. 5. Previous FIP-related FAP penalties are considered in determining the FAP penalty count. BEM 233B, p. 5. Because of the prior FIP-related FAP penalty, the Department properly disqualified Claimant from her FAP group for a six-month minimum.

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 closed Claimant's FIP case and reduced her FAP benefits.

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 12, 2013

Date Mailed: June 13, 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 affect 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

ACE/pf

cc:

