

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

IN THE MATTER OF:



Reg. No.: 2013-35527
Issue No.: 1005,1038,3029
Case No.: [REDACTED]
Hearing Date: April 15, 2013
County: Wayne (43)

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, April 15, 2013. The Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED] Family Independence Specialist, JET Case Manager.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce her Food Assistance Program (FAP) benefits due to a failure to participate in employment and/or self-sufficiency-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 an unverified date, the Department sent Claimant a Work Participation Program Appointment Notice instructing her to attend a work participation program appointment on January 7, 2013.
3. Claimant did not attend the January 7, 2013 appointment.

4. On February 7, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on February 14, 2012 to discuss whether good cause existed for the noncompliance. (Exhibit 1)
5. Claimant did not attend the triage meeting.
6. On February 7, 2013, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits and reduce her FAP benefits effective March 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 2)
7. Claimant's FIP case closed effective March 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities and a three month sanction was imposed.
8. Claimant's FAP benefits were reduced effective March 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities.
9. On March 13, 2013, the Department received the Claimant's request for a hearing disputing the closure of her FIP case and the reduction of her FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services 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.

FIP

As a condition of FIP eligibility, all Work Eligible Individuals (“WEI”) must engage in employment and/or self-sufficiency related activities. BEM 233A (January 2013), 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, as discussed in BEM 233A, 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. A WEI 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 which provides the reason(s) for the action. BAM 220 (November 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. On an unverified date, the Department sent Claimant a Work Participation Program Appointment Notice instructing her to attend a work participation program appointment on January 7, 2013 at which she was to provide the Department with information regarding her school enrollment. Although Claimant confirmed that she received the Appointment Notice, Claimant did not attend the work participation program on that date for her appointment. The Department testified that due to Claimant’s missing the appointment, on February 7, 2013 the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on February 14, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 1). On February 14, 2013, the Department also sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits and reduce her FAP benefits effective March 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 2). BEM 233A, pp. 7-9; BAM 220, p. 9.

At the hearing, Claimant testified that she never received the Notice of Noncompliance informing her of the triage meeting date, nor did she receive the Notice of Case Action. Claimant credibly stated that she has had problems with receiving mail since January 2013 and checks her online My Bridges Account for updates on her case when she thinks the Department may have mailed her information. Claimant further stated that she did not become aware of the Notice of Noncompliance with the triage meeting date and Notice of Case Action until at least one week after the February 14, 2013 triage, when she checked her online My Bridges account to see if there were any updates on her case from the Department. Additionally, the Department testified that a triage was not conducted on February 14, 2013 because Claimant did not appear. According to BEM 233A, a triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp.7-8. The Department closed Claimant's FIP case effective March 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause and a three month sanction was imposed; however, the Department did not conduct a triage before closing the case and making a determination as to good cause. Because the Department failed to conduct a triage prior to Claimant's case closure to determine whether or not good cause existed for Claimant's noncompliance, the Department did not act in accordance with Department policy when it closed Claimant's FIP case for failure to participate in employment and/or self-sufficiency-related activities without good cause and imposed a three month sanction. BEM 233A, p. 7.

FAP

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 (January 2013), 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 her FAP group, thereby reducing Claimant's FAP benefits. (Exhibit 2). As discussed above, the Department did not act in accordance with Department policy when it closed Claimant's FIP case for failure to participate in employment and/or self-sufficiency-related activities without good cause and imposed a three month sanction. Therefore, the disqualification of Claimant from the FAP group which resulted in the reduction of FAP benefits is REVERSED.

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 not act in accordance with Department policy when it closed Claimant's FIP case for failure to participate in employment and/or self-sufficiency-related activities without good cause, imposed the three month penalty and disqualified Claimant as a member of her FAP group.

Accordingly, the Department's FIP and FAP decisions are REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the sanction that was imposed on Claimant's FIP and FAP cases;
2. Initiate reinstatement of Claimant's FIP case effective March 1, 2013 in accordance with Department policy;
3. Begin recalculating the FAP budget to include Claimant as a qualified FAP group member for March 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
4. Begin issuing supplements to Claimant for any FIP and FAP benefits that she was entitled to receive but did not from March 1, 2013, ongoing; and
5. Notify Claimant of its decision in writing in accordance with Department policy.



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

Date Signed: April 24, 2013

Date Mailed: April 24, 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:

