

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

**IN THE MATTER OF:**



Reg. No.: 2013-39048  
Issue Nos.: 1038, 3029  
Case No.: [REDACTED]  
Hearing Date: May 2, 2013  
County: Wayne (82-35)

**ADMINISTRATIVE LAW JUDGE:** Eric Feldman

**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 May 2, 2013, from Detroit, Michigan. Participants included the above-named Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUES**

1. Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment-related activities without good cause?
2. Whether the Department properly reduced 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 applied for FIP benefits on October 16, 2012. Exhibit 9.
2. Claimant's FAP benefits were reduced to \$200 effective November 1, 2012, ongoing, for a group size of one. Exhibit 6.

3. Claimant was approved for FIP benefits effective November 1, 2012, ongoing, in the amount of \$403. Exhibit 6.
4. On January 9, 2013, the Department sent Claimant a Partnership.Accountability.Training.Hope. (PATH) Appointment Notice for Claimant to attend the employment-related activity within 15 days of the notice. Exhibit 1.
5. Claimant failed to attend an employment-related activity by the due date.
6. On January 28, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective March 1, 2013, ongoing, based on a failure to participate in employment-related activities without good cause. Exhibit 3.
7. On January 28, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on February 4, 2013. Exhibit 2.
8. Claimant failed to attend the triage appointment on February 4, 2013.
9. On March 25, 2013, the Department sent Claimant a Notice of Case Action notifying her that the FAP benefits were reduced to \$200, effective April 1, 2013, ongoing, for a group size of one based on her failure to participate in employment-related activities without good cause. Exhibit 4.
10. On April 4, 2013, Claimant requested a hearing disputing the (i) FIP benefit termination and (ii) her FAP benefits reflecting a group size of one. Exhibit 7.

### **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 Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

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 Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACCS, Rule 400.3151 through Rule 400.3180.

### **FIP Benefits**

Regarding FIP applications, completion of the 21-day PATH application eligibility period (AEP) is required for approval of the FIP application. BEM 229 (January 2013), p. 1. PATH participants must complete all of the following in order for their FIP application to be approved: begin the AEP by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice; complete PATH AEP requirements; and continue to participate in PATH after completion of the 21-day AEP. BEM 229, p. 1. The Department denies the FIP application if an applicant does not complete all of the above three components of the AEP. BEM 229, p. 1. The Department will automatically issue a DHS-4785, PATH Program Appointment Notice, at application, member add, or when a client loses a deferral, to schedule an appointment for each mandatory PATH participant. BEM 229, p. 5.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2013), p. 1. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and obtain employment. BEM 230A, p. 1. PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A (January 2013), p. 7. Good cause is determined during triage. BEM 233A, p. 7. 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 and must be verified. BEM 233A, p. 3.

In this case, on January 9, 2013, the Department sent Claimant a PATH Appointment Notice for Claimant to attend the employment-related activity within 15 days of the notice. Exhibit 1. Claimant never attended the appointment notice and on January 28, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective March 1, 2013, based on a failure to participate in employment-related activities without good cause. Exhibit 3. Additionally, on January 28, 2013, the Department mailed Claimant a Notice of Noncompliance, scheduling Claimant for a

triage appointment on February 4, 2013. Exhibit 2. Claimant failed to attend the triage appointment on February 4, 2013. The Department testified that it received no contact from Claimant regarding any problems or rescheduling issues with both the PATH Appointment and the triage. Thus, the Department closed Claimant's FIP case because the Department determined no good cause based upon the best available information it had. BEM 233A, pp. 7 and 8.

At the hearing, Claimant testified she never received (i) the PATH Appointment notice nor (i) the triage appointment. The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Claimant testified that she does not have any issues receiving her mail at her residence. Claimant testified that there are many residents in the home and it was possible that her father received the mail and never notified Claimant about them. Claimant also testified that she does receive Department mail at her residence. It is found that Claimant failed to rebut the presumption of proper mailing.

Moreover, Claimant testified that she spoke to the Department in January 2013 and indicated that she was disabled. At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred. BEM 230A, p. 9. Once a client claims a disability, she must provide the Department with verification of the disability when requested. BEM 230A, p. 10.

The Department testified that it did speak to Claimant in January 2013, but testified that Claimant never stated she was disabled. The Department testified that its conversation with Claimant regarded her non-cooperation status with the Office of Child Support. Moreover, the Department presented Claimant's FIP application and a review of the application indicates that Claimant did not indicate that she is disabled. Exhibit 9. Claimant did provide a Notice of Disability Examination document at the hearing. Exhibit A. This document identified that Claimant was scheduled for an Adult Mental Status Evaluation; however, this form is dated March 5, 2013, and is after the date of appointment notice and triage. Additionally, no completed evaluation by a doctor was provided by Claimant. In light of the foregoing, the Department credibly testified and provided evidence that Claimant (i) never indicated that she was disabled and (ii) did not claim a disability on her FIP application.

In summary, Claimant failed to prove that she never received the PATH Appointment notice or her triage appointment in the mail. Additionally, Claimant failed to show that she claimed she was disabled in order to show good cause and be deferred from the PATH program.

Based on the foregoing information and evidence, the Department established that Claimant failed to participate in employment-related activities without good cause. Therefore, the Department acted in accordance with Department policy when it closed

Claimant's FIP case. Because this was Claimant's second noncompliance, the Department acted in accordance with Department policy when it closed Claimant's case for a six-month minimum. BEM 233A, pp. 1 and 6.

**FAP Benefits**

Based on the above FIP analysis, the Department acted in accordance with Department policy when it found that Claimant had failed to comply with employment-related activities without good cause and sanctioned Claimant's FIP case by closing it for a minimum six-month period. See BEM 233A, p. 6. Because the Department properly closed Claimant's FIP case, it properly reduced Claimant's FAP benefits by excluding her as a disqualified member of her FAP group. BEM 233B (January 2013), pp. 1-9. Claimant must comply with Department policy to reestablish FAP eligibility. See BEM 233B, pp. 7-8.

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 and reduced her 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  AMP  FIP  FAP  MA  SDA decision is  AFFIRMED  REVERSED for the reasons stated on the record.



**Eric Feldman**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: May 9, 2013

Date Mailed: May 9, 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  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

EJF/pf

cc:

