

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

IN THE MATTER OF:



Reg. No.: 201340747
Issue No.: 3029
Case No.: [REDACTED]
Hearing Date: May 9, 2013
County: Wayne DHS (57)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 9, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of Department of Human Services (DHS) included Mark Boyd, Specialist.

ISSUE

The issue is whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefit eligibility due to an employment-related disqualification.

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 FAP and Family Independence Program (FIP) benefit recipient.
2. On 1/4/13, DHS initiated termination of Claimant's FIP benefit eligibility, effective 2/2013, based on an employment-related sanction related to Partnership. Accountability. Training. Hope. (PATH) participation.
3. On 2/21/13, DHS initiated a reduction of Claimant's FAP benefit eligibility, effective an unknown date, due to an employment-related disqualification.
4. On 4/8/13, Claimant requested a hearing to dispute the FAP benefit reduction.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) is a block grant that was established by the Social Security Act. Public Act (P.A.) 223 of 1995 amended P.A. 280 of 1939 and provides a state legal base for FIP. FIP policies are also authorized by the Code of Federal Regulations (CFR), Michigan Compiled Laws (MCL), Michigan Administrative Code (MAC), and federal court orders. Amendments to the Social Security Act by the U.S. Congress affect the administration and scope of the FIP program. The U.S. Department of Health and Human Services (HHS) administers the Social Security Act. Within HHS, the Administration for Children and Families has specific responsibility for the administration of the FIP program. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Prior to a substantive analysis of Claimant's hearing request, two things must be noted. First, Claimant abruptly left in the middle of the hearing. Despite Claimant's premature departure, a hearing decision can be issued based on a substantive analysis. Secondly, Claimant's hearing request listed an authorized hearing representative. Claimant left the hearing prior to being asked about the representative, but Claimant made no reference to wanting to wait for the arrival of the representative and the hearing commenced with Claimant representing herself.

Claimant testified that she requested a hearing, in part, to dispute a FIP benefit termination, effective 4/2013. Claimant's hearing request made no mention of a FIP benefit dispute. The request was tied to a DHS case action which appeared to only concern FAP benefit eligibility. Claimant's failure to provide any notice of a FIP benefit dispute is an appropriate basis to deny Claimant a hearing concerning a FIP benefit dispute. Even if Claimant's hearing request noted a FIP benefit dispute, the request was untimely. The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (2/2013), p. 4. Claimant requested a hearing on 4/8/13, more than 90 days following the written notice of FIP benefit termination (1/4/13).

Claimant also testified that she requested a hearing concerning a FAP benefit reduction. It was not definitively established what caused the benefit reduction. DHS failed to provide a Notice of Case Action explaining the reduction. It was established that DHS imposed an employment disqualification beginning 2/2013, resulting in a FIP benefit

termination. Based on the presented evidence, it is probable that the employment disqualification also affected Claimant's FAP benefit eligibility.

DHS is to disqualify a FAP group member for noncompliance when all the following exist:

- the client was active both FIP and FAP on the date of the FIP noncompliance;
- the client did not comply with FIP employment requirements;
- the client is subject to a 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 (1/2013), p. 2.

It was not disputed that Claimant was found noncompliant with PATH participation at a time when she received FIP and FAP benefits. Thus, the FAP benefit penalty is proper, as long as DHS properly determined Claimant to be noncompliant with PATH participation. Claimant alleged that she had good cause for failing to attend PATH.

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. *Id*, p 3. 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. *Id*, p. 4. A claim of good cause must be verified. *Id*, p. 3.

Claimant testified that she did not attend PATH because she did not receive the notice to attend. Claimant's testimony suggested that the mail may have gone to a different apartment than Claimant's. When Claimant was questioned about her responsibilities to insure that she receives mail, Claimant became angry and departed the hearing. Prior to Claimant's departure, Claimant provided no evidence that she failed to receive notice of the obligation to attend PATH, other than her generic denial of receipt. Based on the presented evidence, Claimant failed to establish good cause for her failure to attend PATH.

Clients meeting one of the criteria below are temporarily deferred from FAP employment-related activities:

- Age: Defer a person who is under age 16 or at least age 60, a 16- or 17-year old who is not the grantee or a grantee age 16 or 17 in special circumstances.
- Care of a Child: Defer one person who personally provides care for a child under age six who is in the FAP group.
- Care of Disabled Household Member: Defer one person who personally provides care for a disabled member of his/her own FAP group.
- Disability: Defer persons incapacitated due to injury, physical illness or mental illness.
- Education: A student enrolled up to half time in any recognized school, training program or institution of higher education meets the employment-related

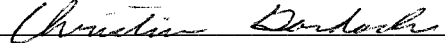
activities requirement. This includes persons attending school for GED or adult high school completion.

- Employment: Persons employed, self-employed or in work study an average of 30 hours or more per week over the benefit period or earning on average the federal minimum wage times 30 hours per week are not required to participate in any further employment-related activities. This includes migrant or seasonal farm workers with an employer or crew chief contract/agreement to begin work within 30 days.
- Pregnancy: Defer pregnant women, beginning the seventh month of pregnancy or earlier if a pregnancy complication is medically documented.
- SSI-FAP Applicant: Defer applicants who apply for both SSI and FAP through the Social Security Administration. The application for SSI and FAP must be made at the same time.
- Substance Abuse Treatment Center Participant: Defer active participants in inpatient or outpatient programs for substance abuse treatment and rehabilitation. This does not include AA or NA group meetings. To verify use a verbal or written statement from the center.
- Unemployment Compensation (UC) Applicant or Recipient: Defer an applicant for or recipient of unemployment benefits. This includes a person whose unemployment benefits application denial is being appealed. BEM 230B (12/2011), pp. 3-5.

There was no evidence that Claimant had a basis for deferral from FAP employment-related activities. It is found that DHS properly reduced Claimant's FAP benefit eligibility due to an employment-related activity disqualification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly reduced Claimant's FAP benefit eligibility due to noncompliance with employment-related activities. The actions taken by DHS are AFFIRMED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/16/2013

Date Mailed: 5/16/2013

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

ACE/hw

cc:

