

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

IN THE MATTER OF:

██████████
██
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Reg. No.: 2013-49046
Issue Nos.: 1038;3000;6019
Case No.: ██████████
Hearing Date: June 24, 2013
County: Wayne (76)

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 June 24, 2013. Claimant and ██████████ Behavioral Health Therapist, appeared and testified. Participants on behalf of the Department of Human Services (Department) included ██████████ Family Independence Manager, and ██████████, Family Independence Specialist.

ISSUE

Did the Department properly process Claimant's cases for Family Independence Program (FIP), Food Assistance Program (FAP) and Child Development and Care (CDC)?

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, FAP and CDC benefits.
2. Claimant alleged a disability as grounds for deferral from participation in the work participation program.
3. The Department referred Claimant to the Medical Review Team (MRT) to determine her ability to participate in work activities.

4. In November 2012 and again in April 2013, the MRT determined that Claimant was not disabled and that she was work ready with limitations. (Exhibit 1)
5. On May 2, 2013, the Department sent Claimant a PATH Appointment Notice instructing her to attend PATH orientation on May 13, 2013. (Exhibit 2)
6. On May 21, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on May 28, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 3).
7. On May 21, 2013, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP, reduce her FAP benefits and impose a three month FIP sanction effective July 1, 2013 for failure to participate in employment and/or self sufficiency-related activities without good cause. (Exhibit 5)
8. On May 24, 2013, the Department received the Claimant's request for a hearing disputing the Department's actions.

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).

FIP

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.

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, among other things. BEM 233A, pp 1-2. 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. BEM 233A, pp. 3, 4.

Good cause includes any of the following: the client is employed for 40 hours/week, the client is physically or mentally unfit for the job, the client has a debilitating illness or

injury or a spouse or child's illness or injury requires in-home care by the client, the Department, employment service provider, contractor, agency or employer failed to make a reasonable accommodation for the client's disability, no child care, no transportation, the employment involves illegal activities, the client experiences discrimination, an unplanned event or factor likely preventing or interfering with employment, long commute or eligibility for an extended FIP period. BEM 233A, p. 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. A triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp.7-8 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 and alleged a disability as grounds for deferral from participation in PATH. A person alleging a disability can be temporarily deferred from participating in the work program as a condition of FIP eligibility. BEM 230A (January 2013), pp.9-13. The Department referred Claimant to the Medical Review Team (MRT) to determine her ability to participate in work activities. In November 2012 and again in April 2013, the MRT determined that Claimant was not disabled and that she was work ready with limitations. (Exhibit 1)

On May 2, 2013, the Department sent Claimant a PATH Appointment Notice instructing her to attend PATH orientation on May 13, 2013. (Exhibit 2). The Department testified that because Claimant did not attend orientation, it sent Claimant Notice of Noncompliance instructing her to attend a triage appointment on May 28, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 3). On May 21, 2013, the Department also sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits effective July 1, 2013 and impose a three month sanction for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 5); BEM 233A, pp. 7-9; BAM 220, p. 9.

Claimant was unable to attend the May 28, 2013 triage meeting, so it was rescheduled and conducted on June 14, 2013. At the triage, the Department concluded that Claimant

did not have good cause for her missing PATH orientation and closed Claimant's FIP case closed effective July 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause and a three month sanction was imposed. (Exhibit 4); BEM 233A, pp.6, 8.

At the hearing, Claimant testified that she did not attend PATH orientation because she had a physical therapy appointment at the same time. Claimant stated that she informed the Department that she attends physical therapy three times a week and requested to have her PATH appointment rescheduled. The Department acknowledged that Claimant informed the Department that she attends physical therapy; however, the Department testified that the documentation provided by Claimant does not support her testimony that she was at physical therapy at the date and time set for PATH orientation. Claimant provided a letter from her doctor dated May 2, 2013 which states that she has been referred to physical therapy three times a week for six weeks. (Exhibit A). This letter does not state when Claimant is to begin physical therapy nor does it indicate what dates and times she is scheduled to attend.

Therefore, because there was no good cause established for Claimant's failure to participate in the PATH program after the MRT determined that she was not disabled, the Department acted in accordance with Department policy when it closed Claimant's FIP case based on noncompliance with employment and/or self-sufficiency-related required activities without good cause and imposed a three month sanction. Accordingly, the Department's FIP action is AFFIRMED.

FAP

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, Rule 400.3001-3015.

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. The Department will however, defer a person who personally provides care for a child under age six who is in the FAP group. BEM 233B, p.3.

The law provides that disposition may be made of a contested case by stipulation or agreed settlement. MCL 24.278(2).

In this case, the Department sent Claimant a Notice of Case Action on May 21, 2013, informing her that the Department intended to disqualify her as a FAP group member and reduce her FAP benefits effective July 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities. (Exhibit 5). Soon after commencement of the hearing, the parties testified that they had reached a settlement concerning the disputed action. At the hearing, the Department testified that because Claimant is a care taker for a child under six years old who is in the FAP group, Claimant is not subject to disqualification for failure to comply with the FIP employment requirements and her FAP benefits should not have been decreased. BEM 233B, p.3. Consequently, the Department agreed to do the following: (i) remove the sanction that was imposed on Claimant's FAP case; (ii) begin issuing supplements to Claimant for any FAP benefits that she was eligible to receive but did not from July 1, 2013 ongoing in accordance with Department policy; and (iii) notify Claimant of its decision in writing in accordance with Department policy.

As a result of this settlement, Claimant no longer wishes to proceed with the hearing regarding her FAP case. As such, it is unnecessary for this Administrative Law Judge to render a decision regarding the facts and issues in this case.

CDC

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1997 AACRS R 400.5001-5015.

In this case, Claimant was an ongoing recipient of CDC benefits. Claimant submitted a request to change CDC providers. On March 26, 2013, the Department received a CDC Provider Verification form and processed the Claimant's request for a change in CDC providers. (Exhibit 6). Claimant requested a hearing because she stated that her request was not processed until May 2013. At the hearing, the Department presented an eligibility summary which shows that Claimant had no lapse in her CDC benefits. (Exhibit 7). Although the Department did not authorize CDC benefits for the time period at issue until May 2013; payment to Claimant's CDC provider would still be approved, provided that Claimant actually incurred the costs. Claimant testified that she did not send her son to the new child care provider until the end of May 2013, when she found out that her CDC benefits were authorized. Because Claimant did not incur any costs that she is entitled to be reimbursed for, the Department acted in accordance with Department policy when it processed Claimant's CDC case.

DECISION AND ORDER

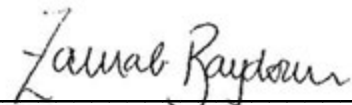
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted in

accordance with Department policy when it terminated Claimant's FIP benefits effective July 1, 2013 due to noncompliance without good cause and imposed a three month sanction. The Department also acted in accordance with Department policy when it processed Claimant's CDC case. Accordingly, the Department's FIP and CDC actions are AFFIRMED.

It is further found that the Department and Claimant have come to a settlement regarding Claimant's request for a hearing with regards to FAP.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING:

1. Remove the sanction that was imposed on Claimant's FAP case;
2. Begin issuing supplements to Claimant for any FAP benefits that she was eligible to receive but did not from July 1, 2013 ongoing in accordance with Department policy; and
3. 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: July 3, 2013

Date Mailed: July 3, 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

ZB/cl

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