

**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.: 2013-52777
Issue No.: 1038; 3029
Case No.: ██████████
Hearing Date: July 15, 2013
County: Wayne (17)

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 July 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's wife, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Family Independence Specialist and Case Manager. Also, ██████████ ██████████ from the Department was present as translator for Claimant and his wife.

ISSUES

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment and/or self-sufficiency related activities without good cause?

Whether the Department properly reduced Claimant's case for Food Assistance Program (FAP) benefits based on Claimant's 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 and his wife were ongoing recipients of FAP and FIP benefits.
2. Claimant and his wife requested to be deferred from the Partnership. Accountability. Training. Hope. (PATH) program due to medical reasons.

3. On January 31, 2013, Claimant and his wife's medical packets were sent to the Medical Review Team (MRT) for review.
4. On May 1, 2013, the MRT denied Claimant and his wife's deferral, however, determined they both were work ready with limitations. See Exhibit 1.
5. On May 14, 2013, the Department sent Claimant and his wife a PATH Appointment Notice for them to attend orientation on May 21, 2013. Exhibit 1.
6. In May 2013, Claimant's wife did not attend the scheduled orientation because she was located in another state.
7. In May 2013, Claimant went to the PATH orientation, but did not participate stating he was unable due to his medical condition.
8. On June 3, 2013, the Department mailed Claimant and his wife a Notice of Noncompliance scheduling Claimant and his wife for a triage appointment on June 10, 2013. Exhibit 2.
9. On June 3, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective July 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2.
10. On June 3, 2013, the Notice of Case Action also notified Claimant that his FAP benefits were reduced to \$608, effective July 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2.
11. On June 10, 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant and his wife's failure to attend an employment and/or self-sufficiency related activities.
12. On June 10, 2013, Claimant requested a hearing, disputing the FIP benefit termination and his FAP reduction. Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

FIP benefits

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.

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. 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. BEM 233A, pp. 3-5.

In this case, Claimant and his wife were ongoing recipients of FIP benefits. Claimant and his wife requested to be deferred from the PATH program due to medical reasons. On January 31, 2013, Claimant and his wife's medical packets were sent to the MRT for review. On May 1, 2013, the MRT denied Claimant and his wife's deferral, however, determined they both were work ready with limitations. See Exhibit 1. On May 14, 2013, the Department sent Claimant and his wife a PATH Appointment Notice for them to attend orientation on May 21, 2013. Exhibit 1. In May 2013, Claimant's wife did not attend the scheduled orientation because she was located in another state. In May 2013, Claimant went to the PATH orientation, but did not participate stating he was unable due to his medical condition. On June 3, 2013, the Department mailed Claimant and his wife a Notice of Noncompliance scheduling Claimant and his wife for a triage appointment on June 10, 2013. Exhibit 2. On June 3, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective July 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2. On June 10, 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant and his wife's failure to attend an employment and/or self-sufficiency related activities.

At intake, redetermination or any time 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 in the system. BEM 230A, p. 9. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. BEM 230A, p. 9.

Determination of a long-term disability is a three step process. BEM 230A, p. 10. The client must fully cooperate with both steps. BEM 230A, p. 10. For step one, once a client claims a disability he/she must provide DHS with verification of the disability when

requested. BEM 230A, p. 10. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 10. For step two, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a MRT decision. BEM 230A, p. 10. Step three involves the referral to MRT. See BEM 230A, pp. 10-11. Upon the receipt of the MRT decision, the Department reviews the determination and information provided by MRT. BEM 230A, p. 11. The Department establishes the accommodations the recipient needs to participate in PATH or to complete self sufficiency-related activities. BEM 230A, p. 11.

After a Medical Review Team decision has been completed and the client states they have new medical evidence or a new condition resulting in disability greater than 90 days, the Department gathers the new verification and sends for an updated MRT decision. BEM 230A, pp. 12-13.

When an individual presents a doctor's note after the MRT decision but does not have new medical evidence or a new condition, the Department sends the DHS-518, Assessment for FIP Participation, to the doctor and requests supporting medical evidence. BEM 230A, p. 13. If new medical evidence is not provided, the Department does not send the case back to the Medical Review Team. BEM 230A, p. 13. The previous MRT decision stands. BEM 230A, p. 13.

At the hearing, Claimant testified that he did receive the PATH appointment notice for him and his wife to attend. Claimant testified that his wife did not attend because she was located in another state. Claimant testified that he did not contact the Department stating that she was in another state. Moreover, Claimant testified that his wife is work ready.

Additionally, Claimant testified that he went to his PATH orientation, however, stated he could not participate due to his medical condition. Claimant testified that the PATH caseworker told him he was denied by MRT for a deferral and that he would have to participate. Also, Claimant testified that the PATH caseworker told him he would be in noncompliance because he did not participate.

Claimant testified that he wanted to dispute the MRT decision. Claimant testified that he has psychiatric issues, joint pains, and continuing medical problems. Claimant testified that he was denied for Supplemental Security Income (SSI) because of his immigration status. Claimant also testified that he does have a MRI test scheduled. The Department testified that Claimant provided the same medical conditions and/or documents that it forwarded to MRT for review at triage. The Department testified that Claimant did not present any new medical evidence for MRT to review for an updated decision. Claimant agreed that he did not provide the Department any new medical documentation. Thus, the Department determined Claimant and his wife did not have any good cause.

Based on the foregoing information and evidence, the Department properly closed Claimant's FIP benefits effective July 1, 2013, ongoing, in accordance with Department

policy. First, this hearing decision has no authority and/or jurisdiction to reverse the MRT decision for Claimant and his wife as it relates to a denial of a PATH deferral. BEM 230A states that when a deferral is not granted, it is not a loss of benefits, termination or negative action. BEM 230A, p. 16. Claimant's deferral not being granted is not a loss of benefits or services. Claimant's FIP case closure is based on his failure to participate in employment-related activities, which resulted in a notice of case action being issued for noncompliance. Second, Claimant's wife did not attend the scheduled orientation. Neither Claimant nor his wife contacted the Department to notify it that she was in another state. Claimant also admitted that his wife is work ready. Third, Claimant failed to participate in the orientation. He has not provided any new medical evidence to indicate any updated MRT decision. Claimant alleges that he has a MRI test in July; however, this is subsequent to the case closure. Moreover, Claimant provided the same medical documentation to the Department which MRT has already reviewed. Therefore, the Department did act in accordance with Department policy when it closed Claimant's FIP case for a three-month minimum. BEM 233A, pp. 1 and 6.

FAP benefits

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 Rule 400.3001 through Rule 400.3015.

Claimant and his wife were ongoing recipients of FAP benefits. On June 3, 2013, the Notice of Case Action also notified Claimant that his FAP benefits were reduced to \$608, effective July 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2.

Based on the above FIP analysis, the Department did act in accordance with Department policy when it found that Claimant and his wife failed to comply with employment-related activities without good cause and sanctioned Claimant's FIP case by closing it for a minimum three-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 him and his wife as disqualified members of the FAP group. BEM 233B (January 2013), pp. 1 - 9.

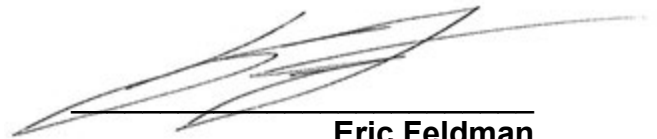
Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly closed Claimant's FIP case and properly reduced the FAP benefits.

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 when it closed Claimant's FIP case effective July 1, 2013, ongoing and properly reduced Claimant's FAP benefits effective July 1, 2013, ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC 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: July 22, 2013

Date Mailed: July 22, 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,
 - 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/cl

cc: [REDACTED]
[REDACTED]
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