

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

IN THE MATTER OF:

██████████
██████████
██████████████████

Reg. No.: 2013-53949
Issue Nos.: 1038;3029
Case No.: ██████████
Hearing Date: July 18, 2013
County: Wayne (17)

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 July 18, 2013. Claimant appeared and testified. Participants on behalf of the Department of Human Services ("Department") included ██████████ ██████████, Family Independence Specialist Case Manager, and ██████████, Agency Translator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce his 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. Claimant's wife alleged a disability as grounds for deferral from participation in the work participation program.
3. The Department referred Claimant's wife to the Medical Review Team (MRT) to determine her ability to participate in work activities.

4. The MRT determined that Claimant's wife was not disabled.(Exhibit 1)
5. On May 22, 2013, the Department sent Claimant's wife a PATH Appointment Notice instructing her to attend PATH orientation on June 4, 2013. (Exhibit 2)
6. On June 10, 2013, the Department sent Claimant's wife a Notice of Noncompliance instructing her to attend a triage appointment on June 17, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 3).
7. On June 10, 2013, the Department sent Claimant a Notice of Case Action informing him that the Department intended to terminate his FIP benefits, reduce his FAP benefits and impose a three month FIP sanction effective July 1, 2013 for his wife's failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 4)
8. On June 18, 2013, the Department received the Claimant's request for a hearing disputing the closure of his FIP case and the reduction of his 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).

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's wife 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's wife to the MRT to determine her ability to participate in work activities. The MRT determined that Claimant was not disabled. (Exhibit 1)

On May 22, 2013, the Department sent Claimant's wife a PATH Appointment Notice instructing her to attend PATH orientation on June 4, 2013. (Exhibit 2). The Department testified that because Claimant did not attend orientation, on June 10, 2013, it sent Claimant Notice of Noncompliance instructing her to attend a triage appointment on June 17, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 3). On June 10, 2013, the Department also sent Claimant a Notice of Case Action informing him that the Department intended to terminate his FIP benefits effective July 1, 2013 and impose a three month sanction for his wife's failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 4); BEM 233A, pp. 7-9; BAM 220, p. 9.

A triage meeting was conducted on June 17, 2013 at which Claimant appeared. At the triage, Claimant informed the Department his wife attended her PATH orientation on June 4, 2013 and that when she got there, she showed a PATH employee a letter from her doctor dated February 6, 2013 which states that Claimant's wife needs to be excused from any class and job for at least six months. (Exhibit A, p.1). Claimant stated that she was sent home from PATH that day. The Department determined that Claimant's wife did not have good cause for not staying and participating in PATH because she was previously informed that the MRT denied her disability deferral and that she had to participate in PATH.

At the hearing, the Department testified that Claimant's wife refused to participate in PATH because Claimant stated that his wife couldn't attend because of her condition. Claimant verified that at the triage, he stated to the Department that according to the documentation from the doctor, his wife was unable to work and disagreed with the MRT finding that she could. While, pursuant to BEM 233A, a disagreement with the Department's Medical Review Team is not good cause for failing to participate in work readiness activities; Claimant's statements that he does not believe his wife is able to work do not amount to a definite intent not to comply with program requirements as required under BEM 233A, p.2, 4.

Additionally, Claimant stated that if he was informed at the triage that his wife must attend and given another opportunity to attend, she would. Claimant indicated that he and his wife have no objection to working and participating in PATH as required. There was no evidence presented to establish that Claimant specifically stated his wife's refusal to attend PATH or that she did not want to participate. Claimant and his wife attended each appointment that they were instructed to attend and did not present an unwillingness to attend future appointments.

Therefore, the Department interpreting Claimant's disagreement with the finding of MRT as a definite intent not to comply with program requirements was improper. Because Claimant's wife did attend her PATH orientation and the triage, the Department should have found good cause and sent Claimant's wife an appointment notice and instructed her to attend PATH once again, as she did not specifically state an intention not to participate and should have not been found in noncompliance.

Accordingly, it is found and determined that the Department did not act in accordance with Department policy when it terminated Claimant's FIP benefits and imposed a three month penalty.

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.

In this case, the Department sent Claimant a Notice of Case Action on June 10, 2013, informing him that the Department intended to disqualify his wife as a FAP group member and reduce the group's FAP benefits effective July 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities. (Exhibit 4). As discussed above, the Department did not act in accordance with policy when it terminated Claimant's FIP benefits and imposed a three month penalty for non-participation. As such, the removal of Claimant's wife from the FAP group which resulted in the reduction of FAP benefits was also improper.

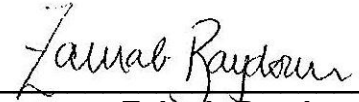
DECISION AND ORDER

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 terminated Claimant's FIP benefits, imposed a three month sanction and reduced Claimant's FAP benefits due to noncompliance without good cause. 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 July 1, 2013 in accordance with Department policy and consistent with this Hearing Decision;
3. Begin recalculating the FAP budget to include Claimant's wife as a qualified FAP group member for July 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 he was entitled to receive but did not from July 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: July 26, 2013

Date Mailed: July 26, 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

cc:

