

**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.: 2013-56455
Issue No.: 1038; 2000; 3029
Case No.: ██████████
Hearing Date: August 5, 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 August 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Specialist Case Manager.

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 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 was an ongoing recipient of FIP, FAP, and Medical Assistance (MA) benefits.
2. On April 10 2013, Claimant's medical verifications were sent to the Medical Review Team (MRT) for a decision on her deferral request. Exhibit 1.

3. On May 15, 2013, the MRT denied Claimant's deferral. Exhibit 1.
4. On May 22, 2013, the Department sent Claimant a Quick Note notifying Claimant that the MRT denied her deferral and she would have to participate in the Partnership. Accountability. Training. Hope. (PATH) program. Exhibit 2.
5. On May 30, 2013, the Department provided Claimant with a Medical Needs – PATH (DHS-54-E) document. Exhibit A.
6. On June 1, 2013, the Department sent Claimant a PATH Appointment Notice for her to attend her scheduled appointment on June 11, 2013. Exhibit 2.
7. On June 11, 2013, Claimant failed to attend the scheduled appointment.
8. On June 20, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective August 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2.
9. On June 20, 2013, the Notice of Case Action also notified the Claimant that her FAP benefits were reduced effective August 1, 2013, in the amount of \$367 because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2.
10. On June 20, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on June 27, 2013. Exhibit 1.
11. On June 27, 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant's failure to attend an employment and/or self-sufficiency related activities. Exhibit 2.
12. On June 27, 2013, Claimant provided the Department at the triage with a new Medical Needs – PATH document dated May 30, 2013. Exhibit A.
13. On June 27, 2013, Claimant filed a hearing request, protesting her FIP benefit termination, her FAP reduction, and MA benefits. Exhibit 2.

CONCLUSIONS OF LAW

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

As a preliminary matter, Claimant's hearing request also addressed her MA benefits. However, Claimant testified that she is receiving her continued MA coverage. Thus, pursuant to Mich Admin Rule 400.906(1), Claimant's MA hearing request is hereby DISMISSED.

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 was an ongoing recipient of FIP benefits. On April 10 2013, Claimant's medical verifications were sent to the MRT for a decision on her deferral request. Exhibit 1. On May 15, 2013, the MRT denied Claimant's deferral. Exhibit 1. On May 22, 2013, the Department sent Claimant a Quick Note notifying Claimant that the MRT denied her deferral and she would have to participate in the PATH program. Exhibit 2. On May 30, 2013, the Department provided Claimant with a Medical Needs – PATH (DHS-54-E) document. Exhibit A. On June 1, 2013, the Department sent Claimant a PATH Appointment Notice for her to attend her scheduled appointment on June 11, 2013. Exhibit 2. On June 11, 2013, Claimant failed to attend the scheduled appointment. On June 20, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective August 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2. On June 20, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on June 27, 2013. Exhibit 1. On June 27, 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant's failure to attend an employment and/or self-sufficiency related activities. Exhibit 2.

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 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.

At the hearing, on May 30, 2013, the Department provided Claimant with a new Medical Needs – PATH document. See Exhibit A. On June 6, 2013, Claimant testified that she submitted this document to the Department. Claimant testified that based on her submitting this document she thought she did not have to attend the PATH orientation on June 11, 2013. Moreover, Claimant testified that she could not attend the PATH appointment because she was sick. Claimant testified that she ultimately attended the PATH orientation on July 3, 2013; however, this is past the 15 day time limit. The PATH Appointment notice specifically states that all applicants must attend PATH within 15 days of the date of the notice. See Exhibit 2. The date of the notice is June 1, 2013. See Exhibit 2. Thus, Claimant did not attend within 15 days.

Nevertheless, the Department testified that it did review Claimant's Medical Needs – PATH document on the date of the triage. The Department testified that the medical diagnosis that the doctor completed on the Medical Needs – PATH document on May 30, 2013, was the same information that MRT originally reviewed in its denial. See Exhibits A and 1. Thus, the Department inferred that no new medical information was presented and the Department determined that she can participate in the PATH program. Thus, on June 27, 2013, Department found no good cause for Claimant's failure to attend an employment and/or self-sufficiency related activities and she was referred to the PATH program. Exhibit 2. It was unclear from the testimony if the Department received the Medical Needs – PATH document on June 6, 2013 as Claimant testified about. However, the Department ultimately reviewed the document on the day of triage.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective August 1, 2013, ongoing. There is evidence that

indicate new medical evidence or a new condition resulting in disability in Claimant's submitted Medical Needs – PATH document. The May 30, 2013 Medical Needs – PATH document does indicate additional diagnosis(es) compared to what the MRT originally reviewed in April 2013. Specifically, the updated Medical Needs – PATH document indicates that Claimant can never work at a usual occupation or at any job. See Exhibit A. The Medical Needs – JET document which the MRT reviewed did not have that information present. See Exhibit 1. Moreover, there are other differences present in the Medical Needs – PATH document which require MRT to complete an updated decision. Claimant appropriately gave the Department the updated Medical Needs – PATH document to the Department at the time of triage and the Department improperly found no good cause. Claimant's testimony and evidence established that the Department should have forwarded this new information for an updated MRT decision. BEM 230A, pp. 12-13. Therefore, the Department did not 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.

On June 20, 2013, the Notice of Case Action also notified the Claimant that her FAP benefits were reduced effective August 1, 2013, in the amount of \$367 because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2.

Based on the above FIP analysis, the Department did not act in accordance with Department policy when it found that Claimant 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 improperly closed Claimant's FIP case, it improperly reduced Claimant's FAP benefits by excluding her as a disqualified member 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 improperly closed Claimant's FIP case and improperly 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 (i) did not act properly when it closed Claimant's FIP case effective August 1, 2013, ongoing and (ii) did not act properly when it reduced Claimant's FAP benefits effective August 1, 2013, ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin removing Claimant's first FIP and FAP sanction from her case;
2. Begin gathering the new medical verifications and send it to MRT for an updated decision;
3. Initiate reinstatement of Claimant's FIP case as of August 1, 2013, ongoing;
4. Begin recalculating the FIP budget for August 1, 2013, ongoing, in accordance with Department policy;
5. Begin issuing supplements for FIP benefits that Claimant was entitled to receive if otherwise eligible and qualified for August 1, 2013, ongoing, in accordance with department policy;
6. Begin removing Claimant's disqualification for her FAP benefits;
7. Begin recalculating the FAP budget for August 1, 2013, ongoing, in accordance with Department policy;
8. Begin issuing supplements for FAP benefits that Claimant was entitled to receive if otherwise eligible and qualified for August 1, 2013, ongoing, in accordance with department policy; and
9. Begin notifying Claimant of the FIP and FAP determination in accordance with Department policy.

Based on the above discussion, it is ALSO ORDERED that Claimant's MA hearing request is DISMISSED pursuant to Mich Admin Rule 400.906(1).



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

Date Signed: August 13, 2013

Date Mailed: August 13, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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