

**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.: 2014 6690
Issue No.: 1038; 3029
Case No.: ██████████
Hearing Date: November 18, 2013
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ FIS.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case (cash assistance) and reduce the Claimant's Food Assistance due to the Claimant and Claimant's wife's failure to participate in employment-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 benefits and after a deferral due to medical reasons, both the Claimant and his wife were assigned to attend the PATH program.
2. The Claimant was assigned to attend PATH Orientation on September 11, 2013 and September 18, 2013. The Claimant did not attend the orientation program.

3. The Claimant's wife also was assigned to attend the PATH Orientation on September 11, 2013 and September 18, 2013 and did not attend. The Claimant's wife had a baby on [REDACTED] and her deferral for child birth (60 days) ended in August 2013. Exhibit 1 A and B
4. Separate Notices of Non-Compliance were sent to both the Claimant and his wife scheduling a triage for September 30, 2013 at 9:00 a.m. The Claimant's spouse received the notice and did not attend the triage. All the Notices of Non-Compliance were dated September 23, 2013. Exhibits 1E and F
5. The Claimant testified that his notice of Non-Compliance came after the triage date so he was unable to attend.
6. The Department held a triage on September 30, 2013 and found no good cause for the failure of the Claimant's wife and the Claimant to attend the PATH orientation program.
7. The reason that the Claimant's wife did not attend was due to having a baby and caring for her child.
8. The Department issued a Notice of Case Action on September 23, 2013 closing the Claimant's FIP Cash Assistance case for 3 months and imposed a first sanction for failure to attend the PATH Orientation, and reduced the Claimant's Food Assistance by removing the Claimant from his FAP group due to non-compliance with work participation and attendance at the PATH Program. Exhibit 1 G
9. The Department applied a three month sanction to Claimant's FIP cash assistance case.
10. On October 11, 2013, Claimant filed a hearing request disputing the Department's actions concerning the closure of his FIP case (cash assistance) and reduction of his Food Assistance due to non-compliance with the PATH Program.

CONCLUSIONS OF LAW

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

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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, R 400.3001 through R 400.3015.

Additionally, the issue to be determined is whether the Department properly closed Claimant's FIP case and applied a three-month sanction to the case for failure by the Claimant to participate in employment-related activities without good cause; and whether the Department properly reduced the Claimant's Food Assistance by removing the Claimant from his FAP group.

At the hearing, the Department established that, after MRT found that Claimant was not disabled and could participate in the PATH program. Claimant and his wife were sent to a PATH orientation on two dates, September 11, 2013 and September 18, 2013. No one attended orientation. The Claimant said on one occasion he had to take a child to the doctor, but could not say where he was for the second orientation date. The Claimant stated his wife did not attend due to the fact that she had to care for her baby, but her deferral of 60 days due to child birth had ended.

The Department credibly testified that a triage was held and the Notices of Non Compliance were sent to the correct address and that neither the Claimant nor his wife attended the triage. The Claimant testified that the Non Compliance notice addressed to him was received late, however it was addressed to the correct address and thus under Michigan law it determined that it was received. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

In addition after listening to all the testimony it is determined that the Department properly determined that the Claimant did not have good cause based upon the evidence it reviewed at the triage which the Claimant and his wife did not attend. Based on the fact that neither the Claimant nor his wife attended PATH Orientation, the Department correctly concluded that there was no good cause presented. The Claimant's spouse is eligible to apply for child day care under the Child Development and Care Program should the Claimant reapply for FIP cash assistance once the sanction is ended. Caring for a child is not a good cause reason for failure to attend Work First. BEM 230A (January 1, 2013), p 13; BEM 233A (January 1, 2013), pp 3-5. And BEM 233 B (FAP). Also it is determined that although the Claimant may have had a reason to reschedule the PATH appointment for September 18, 2013, the Claimant did not present any reason for his failure to attend the PATH appointment on September 11, 2013.

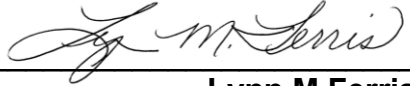
Because this was Claimant's first incident of noncompliance with FIP-related employment activities, the Department properly applied a three-month closure sanction

to his FIP cash assistance case, preventing him from receiving FIP for the period between November 1, 2013 through January 31, 2014. The Department also correctly removed the Claimant from his FAP group due to noncompliance with employment related activities for a 3 month period. BEM 233A, p 6, BEM 233B (January 1, 2013).

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, applied a sanction to the FIP case closing it for 3 months and removing Claimant from his FAP group for 3 months thereby reducing the Claimant's FAP benefits due to noncompliance with work participation requirements without good cause.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.



Lynn M Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 26, 2013

Date Mailed: November 26, 2013

NOTICE OF APPEAL: 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.

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).

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

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]