

**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.: 2014-10492
Issue No.: 3007
Case No.: ██████████
Hearing Date: December 4, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 December 4, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's interpreter, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Family Independence Manager.

ISSUE

Whether the Department properly reduced Claimant's Food Assistance Program (FAP) benefits based on Claimant'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 is an ongoing recipient of FAP benefits. See Exhibit 1.
2. Claimant and his spouse failed to attend an employment-related activity by October 10, 2013. See Exhibit 1.
3. On October 10, 2013, the Department mailed Claimant and his spouse a Notice of Noncompliance scheduling Claimant for a triage appointment on October 17, 2013. Exhibit 1.

4. On October 10, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective November 1, 2013, ongoing, based on a failure to participate in employment-related activities without good cause. Exhibit 1.
5. On October 10, 2013, the Department sent Claimant a Notice of Case Action notifying him that the FAP benefits were reduced to \$615, effective November 1, 2013, ongoing, for a group size of four based on his and his spouse's failure to participate in employment-related activities without good cause. Exhibit 1.
6. On October 17, 2013, Claimant attended his triage appointment and requested in writing his FIP case closure because neither he nor his wife would be able to attend the Partnership. Accountability. Training. Hope. (PATH) program. See Exhibit 1.
7. However, the Department determined that due to the negative action already in place for the non-compliance, his request for the cash closure was secondary to the employment-related requirements for FAP benefits.
8. The Department determined no good cause for the Claimant and the FAP disqualification was placed for a second offense.
9. On October 24, 2013, Claimant filed a hearing request, protesting the FAP disqualification. See Exhibit 1.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

As a preliminary matter, Claimant filed a timely hearing request and he continues to receive the assistance authorized prior to the notice of negative action when the request was filed timely. See BAM 600 (July 2013), pp. 21-22. A review of the Eligibility Summary indicated that he is currently receiving a FAP allotment of \$952 for a group size of six. See Exhibit 1.

In this case, Claimant is an ongoing recipient of FAP benefits. See Exhibit 1. Claimant and his spouse failed to attend an employment-related activity by October 10, 2013. See Exhibit 1. Thus, on October 10, 2013, the Department mailed Claimant and his

spouse a Notice of Noncompliance scheduling Claimant for a triage appointment on October 17, 2013. Exhibit 1. Also, on October 10, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective November 1, 2013, ongoing, based on a failure to participate in employment-related activities without good cause. Exhibit 1. On October 10, 2013, the Notice of Case Action also notified him that the FAP benefits were reduced to \$615, effective November 1, 2013, ongoing, for a group size of four based on his and his spouse's failure to participate in employment-related activities without good cause. Exhibit 1. On October 17, 2013, Claimant attended his triage appointment. The Department testified that Claimant requested in writing his FIP case closure because neither he nor his wife would be able to attend the PATH program. See Exhibit 1. A review of the withdrawal indicates that Claimant has declined the cash program. See Exhibit 1. Also, on October 17, 2013, Claimant also wrote that he would like to decline his cash but keep his FAP and Medical Assistance (MA) benefits. See Exhibit 1. However, the Department testified that due to the negative action already in place for the non-compliance, his request for the cash closure was secondary to the employment-related requirements for FAP benefits. Thus, the Department testified it found no good cause for the Claimant and the FAP disqualification was placed for a second offense.

At the hearing, Claimant testified that both the interpreter and the DHS caseworker provided him with the incorrect policy information at the triage appointment. Claimant testified that he was told if he withdrew his cash benefits that his FAP benefits would not be affected. Claimant also testified that he and his wife suffer from medical conditions. Ultimately, Claimant argues that he does not want to be disqualified from his FAP benefits because both the interpreter and DHS caseworker provided him with the incorrect information.

The Department testified that it is possible that the interpreter (who is not a DHS caseworker) provided the incorrect information, but not the DHS caseworker. Moreover, the Department testified that Claimant was found to be in non-compliance before his request for withdrawal. Thus, Claimant failed to meet his employment-related requirements for FAP benefits and the disqualification should be upheld for a second offense.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance applies when the client is an active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause. BEM 233B (July 2013), p. 1. If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. BEM 233B, p. 2. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. BEM 233B, p. 2. No other deferral reasons apply for participants active FIP and FAP. BEM 233B, p. 2.

The Department determines good cause during the triage appointment. BEM 233B, p. 2. Good cause is a valid reason for failing to participate in employment and/or self-sufficiency-related activities or refusing suitable employment. BEM 233B, p. 7.

The Department determines FAP good cause separately from the FIP/RCA based on FAP good cause reasons. BEM 233B, p. 2. If good cause reason is selected for FIP/RCA it also applies to FAP. BEM 233B, p. 2. If the client does not meet one of the FIP/RCA good cause reasons, but does meet one of the FAP only good cause reasons, select the FAP only good cause reason to avoid client disqualification on FAP. BEM 233B, pp. 2-3.

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. See BEM 233B, pp. 7-10 for additional lists and BEM 233A (July 2013) pp. 3-5. Deferrals for the FAP program can be age, care of a child, care of disabled household member, disability, education, employment, pregnancy, SSI/FAP applications, substance abuse treatment center participant, and unemployment compensation (UC) applicant or recipient. BEM 230B (October 2013), pp. 4-6.

The Department disqualifies a FAP group member for noncompliance when all the following exist:

- The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.
- The client did not comply with FIP/RCA employment requirements.
- The client is subject to a penalty on the FIP/RCA program.
- The client is not deferred from FAP work requirements.
- The client did not have good cause for the noncompliance.

BEM 233B, p. 2.

In regards to member disqualification, for the first occurrence, the Department disqualifies the person for one month or until compliance, whichever is longer. BEM 233B, p. 6. For a second or subsequent occurrence, the Department disqualifies the person for six months or until compliance, whichever is longer. BEM 233B, p. 6.

Based on the foregoing information and evidence, the Department properly reduced Claimant's FAP benefits by excluding him and his wife as a disqualified member of the FAP group in accordance with Department policy. First, Claimant was an active FIP and FAP recipient on the date of the FIP noncompliance. BEM 233B, p. 2. Second, Claimant and his wife failed to participate in employment-related activities. The Department credibly testified that Claimant stated neither he nor his wife would be able to attend the PATH program on the date of the triage. Moreover, Claimant even requested his cash case closure for this reason. Because Claimant and his wife are

unable to attend the PATH program and failed to do such when required, they were found to be in non-compliance with the PATH program. Moreover, Claimant requested a hearing in which he is only disputing his FAP disqualification. In essence, he is acknowledging the FIP non-compliance. Third, due to the non-compliance, Claimant is subject to a penalty on the FIP program. BEM 233B, p. 2. Also, Claimant's argument is not valid when he alleged that the interpreter and DHS told him if he withdrew his cash benefits that his FAP benefits would not be affected. On October 10, 2013, the Notice of Case Action specifically stated that he and his wife were disqualified from the FAP benefits due to their failure to participate in employment-related activities without good cause. See Exhibit 1. The notice clearly states that the FAP disqualification would occur due to the non-compliance. Moreover, Claimant did not credibly testify that he was misinformed because he had a valid notice of the disqualification reasons. Fourth, Claimant failed to provide any valid deferral reasons for the FAP work requirements. Fifth, Claimant did not have a good cause reason for the FAP noncompliance. Claimant and his wife are unable to attend the PATH program, which indicates a refusal to participate in employment-related activities. Claimant did argue medical conditions, but the Department rebutted this by stating that MRT denied their deferral. Claimant failed to present any valid good cause reasons. Therefore, it is found that Claimant had failed to comply with employment-related requirements without good cause and the Department properly disqualified the FAP benefits for a second occurrence. BEM 233B, p. 6.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it properly reduced Claimant's FAP benefits for a second occurrence.

Accordingly, the Department's FAP decision is AFFIRMED.



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

Date Signed: December 10, 2013

Date Mailed: December 10, 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

EJF/cl

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