

**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.: 2014-14358
Issue No(s): 1008; 3007
Case No.: ██████████
Hearing Date: December 18, 2013
County: Wayne (43)

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 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Partnership. Accountability.Training.Hope. (PATH) Worker.

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 and FAP benefits. See Exhibit 1.
2. Claimant failed to participate in employment and/or self-sufficiency related activities without good cause on October 16, 2013. See Exhibit 1.

3. On October 16, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective November 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.
4. On October 16, 2013, the Notice of Case Action also notified the Claimant that his FAP benefits were reduced effective November 1, 2013, in the amount of \$189 because he failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.
5. On October 16, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on October 24, 2013. Exhibit 1.
6. On October 24, 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities.
7. On November 21, 2013, Claimant requested a hearing, disputing his FIP termination and FAP reduction. 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 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 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.

Preliminary matter

At the hearing, Claimant provided a previous request for hearing that the Department received on October 1, 2013. See Exhibit A. This hearing request was disputing Claimant's FIP benefits. See Exhibit A. This additional hearing request that Claimant provided will not be addressed in this hearing decision. However, the additional hearing request will be forwarded to the appropriate individual for review.

FIP benefits

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 (October 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 (July 2013), p. 9. Good cause is determined during triage. BEM 233A, p. 9. 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. 4. 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 and FAP benefits. See Exhibit 1. The Department presented as evidence its case notes to show how Claimant failed to participate in employment and/or self-sufficiency related activities without good cause. See Exhibit 1. The Department testified that Claimant failed to show for two appointments on October 8 and 9, 2013. See Case Notes, Exhibit 1. Moreover, on or around October 9, 2013, the PATH program sent Claimant a Non-Compliance Warning Notice due to his non-participation on October 8, 2013 and October 9, 2013. See Case Notes, Exhibit 1. The case notes indicated that Claimant was to return to PATH on October 14, 2013, and also bring his job search log for the week of September 29, 2013. See Case Notes, Exhibit 1. The case notes further indicated that Claimant failed to attend on October 14, 2013. See Case Notes, Exhibit 1. Due to the no-shows and failure to submit the job search logs, the Department sent Claimant a Notice of Noncompliance letter on October 16, 2013. The Notice of Noncompliance letter also scheduled Claimant for a triage appointment on October 24, 2013. Exhibit 1. Moreover, on October 16, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective November 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.

Additionally, Claimant attended the triage appointment on October 24, 2013. At the triage, the case notes indicated that Claimant felt that he needed to work and not do community service. See Case Notes, Exhibit 1. Moreover, the case notes show that Claimant stated he and his son were sick and his car broke down. See Case Notes, Exhibit 1. Finally, the case notes indicated that Claimant failed to respond to the re-engagement letter because he has been moving to different places and he was homeless. See Case Notes, Exhibit 1. Based on this information, the Department testified that it found no good cause for Claimant's failure to attend employment and/or

self-sufficiency related activities and his FIP benefits were sanctioned for a minimum three-month period.

At the hearing, Claimant testified that he was supposed to attend community service activities for October 8, 2013 and October 9, 2013. On October 8, 2013, Claimant testified that he did arrive one hour late at the community service because his car broke down and his child was sick. Claimant testified that the community service would not allow him to participate and he could attend on October 9, 2013. In regards to the October 9, 2013 appointment, Claimant testified that he did not show because he felt that he did need to work and not do community service to support his child. Additionally, Claimant testified that he eventually received the non-compliance letter; however, it was after the re-engagement date. It should also be noted that Claimant testified that he notified the Department that he was homeless in September 2013.

In regards to Claimant's triage appointment, Claimant appeared to agree with the notations made on the case notes. See Case Notes, Exhibit 1. Moreover, Claimant agreed that he felt that he needed to work and not do community service. However, during the hearing, Claimant provided testimony to state a good cause reason for the noncompliance. First, Claimant testified that he and his child were sick and he was unable to attend the community service activities. Second, Claimant testified that he was having transportation issues due to his car not working. Third, Claimant testified that he is homeless and living in different locations.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective November 1, 2013, ongoing. The Department showed that Claimant was in non-compliance due to the no-shows and failure to submit the job search logs. Moreover, Claimant agreed that he needed to work and not do community service. However, the Claimant has established a good cause reason for the noncompliance with employment and/or self-sufficiency related activities. BEM 233A, p. 4.

First, Claimant provided credible testimony that he attempted to participate in the community service activities on October 8, 2013, however, he did arrive late. Second, Claimant provided good cause reasons for not attending and/or being late for the community service activities/jobs search logs which included an illness for both Claimant and his son, no transportation due to his car being broken down, and an unplanned event or factor (homelessness). See BEM 233A, pp. 4-6. All of Claimant's reasons fall under the category of good cause. See BEM 233A, pp. 4-6. Third, a review of Claimant's case notes indicates that Claimant has been participating in the PATH program, even though it is for a short period. See Case Notes, Exhibit 1. For example, on October 1, 2013, the case notes indicate that Claimant submitted his job search documentation for the week of September 22, 2013. See Case Notes, Exhibit 1. This shows that Claimant was participating in the PATH program prior to his non-compliance. Finally, it was determined that a PATH caseworker was not present at the hearing to rebut Claimant's testimony. The DHS caseworker present at the hearing

relied heavily on the case notes; however, the DHS caseworker was not present for the non-compliance issues or the triage itself.

In summary, Claimant has provided a good cause reason for the noncompliance and therefore, the Department improperly closed Claimant's FIP benefits effective November 1, 2013, ongoing. BEM 233A, pp. 3-5.

FAP benefits

Based on the above FIP analysis, the Department did not act in accordance with Department policy when it found that Claimant had 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 did not properly close Claimant's FIP case, it improperly reduced Claimant's FAP benefits by excluding him as a disqualified member of his FAP group. BEM 233B (July 2013), 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 did not act in accordance with Department policy when (i) it improperly closed Claimant's FIP benefits effective November 1, 2013, ongoing; and (ii) it improperly reduced Claimant's FAP benefits by excluding him as a disqualified member of his FAP group effective November 1, 2013, ongoing.

Accordingly, the Department's FIP and FAP decisions are REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove Claimant's first FIP and FAP sanction from his case;
2. Reinstate Claimant's FIP and FAP case as of November 1, 2013, ongoing;
3. Begin recalculating the FIP and FAP budget for November 1, 2013, ongoing, in accordance with Department policy;
4. Issue supplements to Claimant for any FIP and FAP benefits he was eligible to receive but did not from November 1, 2013, ongoing; and

5. Notify Claimant in writing of its FIP and FAP decision in accordance with Department policy.



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

Date Signed: December 20, 2013

Date Mailed: December 20, 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]
[REDACTED]
[REDACTED]
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