

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-31075
Issue No.: 1005,1038,3029
Case No.: [REDACTED]
Hearing Date: March 27, 2013
County: Wayne (41)

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 Wednesday, March 27, 2013. The Claimant appeared and testified. Participants on behalf of the Department of Human Services ("Department") included [REDACTED], PATH Worker; [REDACTED] Family Independence Manager; [REDACTED], Eligibility Specialist; and [REDACTED] PATH Career Coach (Michigan Works).

ISSUE

Did the Department properly close Claimant's cash assistance (FIP) case and reduce her food assistance (FAP) benefits due to a failure to participate in employment and/or self-sufficiency-related activities?

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. On December 17, 2012, the Department sent Claimant a Noncompliance Warning Notice due to her lack of attendance in the SERCO Job, Education and Training Program. (Exhibit 2).

3. The Noncompliance Warning Notice instructed Claimant to appear at a reengagement meeting scheduled for December 26, 2012. (Exhibit 2).
4. Claimant did not attend the reengagement meeting.
5. On January 4, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on January 10, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 1. pp.4-5).
6. Claimant did not attend the triage meeting.
7. On January 4, 2013, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits and reduce her FAP benefits effective February 1, 2013 for failure to participate in employment and/or self sufficiency-related activities. (Exhibit 4).
8. Claimant's FIP case closed effective February 1, 2013 for failure to participate in employment and/or self sufficiency-related activities and a three month sanction was imposed.
9. Claimant's FAP benefits were reduced effective February 1, 2013 for failure to participate in employment and/or self sufficiency-related activities.
10. On February 15, 2013, the Department received the Claimant's request for a hearing disputing the closure of her FIP case and the reduction of her FAP benefits.

CONCLUSIONS OF LAW

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

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.

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.

FIP

As a condition of FIP eligibility, all Work Eligible Individuals (“WEI”) must engage in employment and/or self-sufficiency related activities. BEM 233A (November 1, 2012), 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. 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: 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, p. 4. A WEI, and non-WEIs 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 1, 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. 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 was an ongoing recipient of FIP benefits. As a condition of receiving FIP benefits, Claimant was required to submit documentation of her education logs and job search logs and report to the Department once a week. The Department testified that due to Claimant’s noncompliance with providing complete logs in a timely manner and not meeting her weekly hourly requirements, on December 17, 2012, the Department sent Claimant a Noncompliance Warning Notice due to her lack of attendance in the SERCO Job, Education and Training Program. (Exhibit 2). A Re-engagement Meeting was held on December 26, 2012 at 10:00 am, which Claimant failed to attend. (Exhibit 2, p.2). On December 26, 2012 at around 5:00 pm, Claimant appeared at the local Department office to submit education and job search logs. Claimant did not provide the Department with any reason why she failed to attend the reengagement meeting earlier that day. At the hearing Claimant testified that although she received the Noncompliance Warning Notice, she did not attend the reengagement

meeting because she did not know she was required to and thought that she only needed to submit her logs.

The Department evidence established that Claimant's documentation of her education and job search logs were incomplete, and she failed to attend the reengagement meeting on January 4, 2013. The Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on January 10, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 1, p. 4). On January 4, 2013, the Department also sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits effective February 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities (Exhibit 4). Claimant did not attend the triage meeting held on January 10, 2013. At the hearing, Claimant testified that she did not receive the Notice of Noncompliance until January 10, 2013, the same day the triage meeting was scheduled to be held. Claimant stated that it was a school day for her and that when she returned from school, she found the Notice after the triage meeting was over. Claimant testified that she tried to get in contact with the Department to reschedule her triage meeting but could not reach her case worker. Claimant timely received all other notices and communications mailed to her by the Department without issue.

The Department determined that Claimant did not have good cause for her failure to attend the triage meeting and her noncompliance with work-related activities and the Department closed Claimant's FIP case effective February 1, 2013. A three month penalty was imposed. (Exhibit 3). At the hearing, Claimant did not provide any good cause reasons for her inability to comply with the requirement that she submit documentation of her education logs and job searches in person on a weekly basis as required under BEM 233A. As such, the Department properly terminated FIP benefits and imposed a three month penalty based on Claimant's noncompliance with employment and/or self-sufficiency-related required activities without good cause. Accordingly, the Department's actions are AFFIRMED.

FAP

Additionally, Claimant requested a hearing to address the decrease in her FAP benefits. Noncompliance without good cause with employment requirements for FIP may affect FAP if both programs were active on the date of FIP noncompliance. BEM 233B (November 1, 2012), 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. The Department will, however, defer a person who personally provides care for a child under age six who is in the FAP group. BEM 233B, p.3.

In this case, the Department sent Claimant a Notice of Case Action on January 4, 2013, informing her that the Department intended to disqualify her as a FAP group member and reduce her FAP benefits to \$200.00 effective February 1, 2013 for failure to

participate in employment and/or self-sufficiency-related activities. At the hearing, the Department testified that because Claimant is a caretaker for a child under six years old who is in the FAP group, Claimant is not subject to disqualification for failure to comply with the FIP employment requirements. As a result, the Department presented an eligibility summary verifying that on March 18, 2013, the Department issued supplemental FAP benefits to Claimant in the amount of \$167.00 to cover the months of February and March 2013. (Exhibit 5). Claimant was satisfied with this action and no longer wished to have this issue addressed at the hearing.

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 acted in accordance with Department policy when it terminated Claimant's FIP benefits due to noncompliance without good cause and imposed the three month penalty for non-participation.

Accordingly, it is ORDERED:

1. The Department's termination of FIP benefits and imposition of a three month sanction is AFFIRMED.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 3, 2013

Date Mailed: April 3, 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

Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ZB/cl

cc:

